Algernon Sidney

Manus hæc Inimica Tyrannis
Ense petit placidam sub Libertate Quietem

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DISCOURSES
CONCERNING
GOVERNMENT,
BY
Algernon Sidney,

Son to *Robert* Earl of *Leiceſter*, and Ambaſſador from the Commonwealth of *England* to *Charles Guſtavus* King of *Sweden*.

Publiſh'd from an Original Manuſcript.

The Second Edition carefully corrected.

To which is Added,

The Paper He deliver'd to the Sheriffs immediately before his Death.

And an ALPHABETICAL TABLE.

Dulce & decorum eſt pro Patria mori. Hor.

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DISCOURSES

CONCERNING

GOVERNMENT.

BY

Algernon Sidney

MVSEVM
BRITAN
NICVM

THE PREFACE.

HOW highly the Writings of wise and good Men concerning Government have bin esteem'd in all Ages, the testimony of History, and the preservation of so many Books compos'd by the Antients on that Subject, do sufficiently manifest. And it may be truly said, that unless men have utterly abandon'd themselves to all that is detestable, they have seldom attempted to detract from the worth of the Assertors of Liberty, tho Ambition and other passions have influenc'd them to act in opposition to it. When Augustus *had surpriz'd a young* Roman *who was related to him, reading a political Discourse of* Cicero, *he commended his judgment in that choice. The History of* France, *written by the President* de Thou, *with a spirit of Freedom that might have bin worthy of those who liv'd before the violation of their Liberty, has bin so generally valu'd by men of all ranks in that Nation, that 'tis hard to find a Book on any important Subject which has had so many Editions. And the just esteem that the Emperor* Charles *the Fifth made of the Memoirs of* Philip de Commines *(tho that Author has given so many instances of his detestation of Tyranny) may be enough to put this matter out of dispute. But if all other proof were wanting, the implacable hatred, and unweary'd industry of the worst of men to suppress such Writings, would abundantly testify their excellency.*

That Nations should be well inform'd of their Rights, is of the most absolute necessity: because the happiness or infelicity of any People intirely depends upon the enjoyment or deprivation of Liberty; which is so invincibly prov'd in the following Discourses, that to endeavour to make it more clear, would be an unpardonable presumption.

If any man think the publication of this Work to be unseasonable at this time, he is desir'd to consider, that as men expect good Laws only from a good Government, so the Reign of a Prince, whose Title is founded upon the principle of Liberty which is here defended, cannot but be the most proper, if not the only time to inform the People of their just Rights, that from a due sense of their inestimable value, they may be encourag'd to assert them against the attempts of ill men in time to come.

The Preface.

'Tis not necessary here to say any thing concerning the Person of the Author. He was so well known in the world, so universally esteem'd by those who knew how to set a just value upon true Merit, and will appear so admirable in the following Discourses, as not to stand in need of a flattering Panegyrick. But it may not be amiss to say something of the Discourses now publish'd.

The Paper deliver'd to the Sheriffs immediately before his death informs us, that he had left a Large and a Lesser Treatise written against the Principles contain'd in Filmer's *Book; and that a small part of the lesser Treatise had bin produc'd for evidence against him at his Trial. 'Tis there also said, that the lesser Treatise neither was, nor probably ever should have bin finish'd. This therefore is the Large Work mention'd in that Paper, and not the Lesser, upon part of which the wicked Sentence pronounc'd, and executed against him, was grounded.*

It remains only to add a few words for satisfaction of the Publick, that these Discourses are genuine. And here I shall not need to say, that they were put into the hands of a Person of eminent Quality and Integrity by the Author himself; and that the Original is, in the judgment of those who knew him best, all written by his own hand: His inimitable manner of treating this noble Subject, is instead of a thousand demonstrations, that the Work can belong to no other than the Great Man whose Name it bears.

Isaac Littlebury

ERRATA.

PAge 14. line 23. for *it*, read *at*. P. 32. l. 26. r. *Author*. P. 33. l. 22. r. *title*. P. 58. l. 38 r. *is*. P. 266. l. 4. r. *as*. P. 288. l. 12. r. 25 *E.* 3. and so in P. 325. l. 1. P. 330. l. 7. put the Parenthesis after *some*). P. 331. l. 35. r. *depended*. P. 344. l. 48. f. 17, r. 16. P. 345. l. 28. r. *most virulent*. P. 356. l. 24. r. *that of*. P. 364. l. 26. for *they*, r. *the*. P. 371. l. 44. r. *Lands*. P. 379. l. 37. r. *that the*. P. 403. l. 24. r. *Justice*. P. 417. l. 9. r. *great*.

THE

The CONTENTS.

CHAP. I.

SEction 1. *The Introduction*, Page 1.

Sect. 2. *The common notions of Liberty are not from School-Divines, but from Nature*, p. 3.

Sect. 3. *Implicit Faith belongs to Fools, and Truth is comprehended by examining Principles*, p. 6.

Sect. 4. *The Rights of particular Nations cannot ſubſiſt, if general Principles contrary to them are receiv'd as true*, p. 8.

Sect. 5. *To depend upon the will of a man is ſlavery*, p. 9.

Sect. 6. *God leaves to man the choice of forms in Government; and thoſe who conſtitute one form may abrogate it*, p. 11.

Sect. 7. Abraham *and the Patriarchs were not Kings*, p. 14.

Sect. 8. Nimrod *was the firſt King during the life of* Chuſh, Cham, Shem, *and* Noah, p. 15.

Sect. 9. *The Power of a Father belongs only to a Father*, p. 18.

Sect. 10. *Such as enter into Society, muſt in ſome degree diminiſh their Liberty*, p. 19.

Sect. 11. *No man comes to command many, unleſs by conſent, or by force.* p. 20.

Sect. 12. *The pretended paternal Right is diviſible or indiviſible: if diviſible, 'tis extinguiſh'd; if indiviſible, univerſal*, p. 21.

Sect. 13. *There was no ſhadow of a paternal Kingdom amongſt the* Hebrews, *nor Precept for it*, p. 23.

Sect. 14. *If the paternal Right had included Dominion, and was to be tranſfer'd to a ſingle Heir, it muſt periſh if he were not known; and could be apply'd to no other perſon*, p. 25.

Sect. 16. *The Antients choſe thoſe to be Kings, who excel'd in the Vertues that are moſt beneficial to Civil Societys*, p. 30.

Sect. 17. *God having given the Government of the World to no one man, nor declar'd how it ſhould be divided, left it to the will of man*, p. 35.

Sect. 18. *If a right of Dominion were eſteem'd hereditary according to the Law of Nature, a multitude of deſtructive and inextricable Controverſys would thereupon ariſe*, p. 38.

Sect. 19. *Kings cannot confer the Right of Father upon Princes, nor Princes upon Kings*, p. 42.

Sect. 20. *All juſt Magiſtratical Power is from the People*, p. 47.

CHAP. II.

SECT. 1. *That 'tis natural for Nations to govern, or to chuſe Governors; and that Vertue only gives a natural preference of one man above another, or reaſon why one ſhould be choſen rather than another*, p. 51.

Sect. 2. *Every man that has Children, has the right of a Father, and is capable of preferment in a Society compos'd of many*, p. 58.

Sect. 3. *Government is not inſtituted for the good of the Governor, but of the Governed; and Power is not an advantage, but a burden*, p. 60.

Sect. 4. *The paternal Right devolves to, and is inherited by all the Children*, p. 62.

The Contents.

Sect. 5. *Free men join together, and frame greater or leſſer Societys, and give ſuch forms to them as beſt pleaſe themſelves*, p. 65.

Sect. 6. *They who have a right of chuſing a King, have the right of making a King*, p. 73.

Sect. 7. *The Laws of every Nation are the meaſure of Magiſtratical Power*, p. 76.

Sect. 8. *There is no natural propenſity in man or beaſt to Monarchy*, p. 82.

Sect. 9. *The Government inſtituted by God over the* Iſraelites *was Ariſtocratical*, p. 84.

Sect. 10. Ariſtotle *was not ſimply for Monarchy, or againſt Popular Government, but approv'd or diſapprov'd of either according to circumſtances*, p. 90.

Sect. 11. *Liberty produces Vertue, Order and Stability: Slavery is accompany'd with Vice, Weakneſs and Miſery*, p. 92.

Sect. 12. *The Glory, Vertue and Power of the* Romans, *began and ended with their Liberty*, p. 99.

Sect. 13. *There is no diſorder or prejudice in changing the name or number of Magiſtrates, whilſt the root and principle of their Power continues intire*, p. 103.

Sect. 14. *No Sedition was hurtful to* Rome, *till thro their proſperity ſome men gain'd a Power above the Laws*, p. 105.

Sect. 15. *The Empire of* Rome *perpetually decay'd, when it fell into the hands of one man*, p. 108.

Sect. 16. *The beſt Governments of the World have bin compos'd of Monarchy, Ariſtocracy and Democracy*, p. 115.

Sect. 17. *Good Governments admit of changes in the Superſtructures, whilſt the Foundations remain unchangeable*, p. 118.

Sect. 18. Xenophon *in blaming the diſorders of Democracys, favors Ariſtocracys*, p. 122.

Sect. 19. *That corruption and venality which is natural to Courts, is ſeldom found in Popular Governments*, p. 128.

Sect. 20. *Man's natural love to Liberty is temper'd by Reaſon, which originally is his nature*, p. 133.

Sect. 21. *Mix'd and Popular Governments preſerve Peace, and manage Wars better than Abſolute Monarchys*, p. 136.

Sect. 22. *Commonwealths ſeek Peace or War, according to the variety of their Conſtitutions*, p. 141.

Sect. 23. *That is the beſt Government, which provides beſt for War*, p. 146.

Sect. 24. *Popular Governments are leſs ſubject to Civil diſorders than Monarchys, manage them more ably, and more eaſily recover out of them*, p. 152.

Sect. 25. *Courts are more ſubject to venality and corruption than Popular Governments*, p. 179.

Sect. 26. *Civil Tumults and Wars are not the greateſt evils that befal Nations*, p. 185.

Sect. 27. *The miſchiefs and crueltys proceeding from Tyranny, are greater than any that can come from Popular or Mix'd Governments*, p. 188.

Sect. 28. *Men living under Popular or Mix'd Governments, are more careful of the Publick Good, than in Abſolute Monarchys*, p. 193.

Sect. 29. *There is no aſſurance that the diſtempers of a State ſhall be cur'd by the wiſdom of a Prince*, p. 200.

Sect. 30. *A Monarchy cannot be well regulated, unleſs the Powers of the Monarch are limited by Law*, p. 207.

Sect. 31. *The Libertys of Nations are from God and Nature, not from Kings*, p. 220.

Sect. 32. *The Contracts made between Magiſtrates and the Nations that created them, were real, ſolemn, and obligatory*, p. 224.

CHAP.

The Contents.

CHAP. III.

SECT. 1. *Kings not being Fathers of their People, nor excelling all others in vertue, can have no other just power than what the Laws give, nor any title to the Privileges of the Lord's Anointed*, p. 227.

Sect. 2. *The Kings of* Israel *and* Judah *were under a Law not safely to be transgrest*, p. 238.

Sect. 3. Samuel *did not describe to the* Israelites *the glory of a free Monarchy, but the evils the People should suffer, that he might divert them from desiring a King*, p. 240.

Sect. 4. *No People can be oblig'd to suffer from their Kings what they have not a right to do*, p. 242.

Sect. 5. *The mischiefs suffer'd from wicked Kings are such as render it both reasonable and just for all Nations that have Vertue and Power, to exert both in repelling them*, p. 245.

Sect. 6. *'Tis not good for such Nations as will have Kings, to suffer them to be glorious, powerful, or abounding in Riches*, p. 249.

Sect. 7. *When the* Israelites *ask'd for such a King as the Nations about them had, they ask'd for a Tyrant tho they did not call him so*, p. 252.

Sect. 8. *Under the name of Tribute no more is understood, than what the Law of each Nation gives to the supreme Magistrate for the defraying of publick Charges; to which the customs of the* Romans, *or sufferings of the* Jews *have no relation*, p. 257.

Sect. 9. *Our own Laws confirm to us the enjoyment of our native Rights*, p. 262.

Sect. 10. *The words of St.* Paul *enjoining obedience to higher Powers, favour all sorts of Government no less than Monarchy*, p. 266.

Sect. 11. *That which is not just is not Law, and that which is not Law ought not to be obey'd*, p. 273.

Sect. 12. *The right and power of a Magistrate depends upon his Institution, not upon his Name*, p. 275.

Sect. 13. *Laws were made to direct and instruct Magistrates, and if they will not be directed, to restrain them*, p. 278.

Sect. 14. *Laws are not made by Kings, not because they are busy'd in greater matters than doing Justice, but because Nations will be govern'd by Rule, and not arbitrarily*, p. 282.

Sect. 15. *A general presumption that Kings will govern well, is not a sufficient security to the People*, p. 286.

Sect. 16. *The observation of the Laws of Nature is absurdly expected from Tyrants, who set themselves up against all Laws: and he that subjects Kings to no other Law than what is common to Tyrants, destroys their being*, p. 289.

Sect. 17. *Kings cannot be the interpreters of the Oaths they take*, p. 294.

Sect. 18. *The next in blood to deceas'd Kings, cannot generally be said to be Kings till they are crown'd*, p. 301.

Sect. 19. *The greatest enemy of a just Magistrate is he who endeavors to invalidate the Contract between him and the People, or to corrupt their manners*, p. 311.

Sect. 20. *Unjust commands are not to be obey'd; and no man is oblig'd to suffer for not obeying such as are against Law*, p. 314.

Sect. 21. *It cannot be for the good of the People, that the Magistrate have a Power above the Law: And he is not a Magistrate who has not his Power by Law*, p. 317.

Sect.

The Contents.

Sect. 22. *The rigor of the Law is to be temper'd by men of known integrity and judgment, and not by the Prince, who may be ignorant or vicious*, p. 323.
Sect. 23. Ariſtotle *proves, that no man is to be intruſted with an Abſolute Power, by ſhewing that no one knows how to execute it, but ſuch a man as is not to be found*, p. 326.
Sect. 24. *The Power of* Auguſtus Ceſar *was not given, but uſurp'd*, p. 328.
Sect. 25. *The Regal Power was not the firſt in this Nation, nor neceſſarily to be continu'd, tho it had bin the firſt*, p. 329.
Sect. 26. *That the King may be intruſted with the power of chuſing Judges; yet that by which they act is from the Law*, p. 336.
Sect. 27. Magna Charta *was not the Original, but a Declaration of the* Engliſh *Libertys. The King's Power is not reſtrain'd, but created by that and other Laws; and the Nation that made them, can only correct the defects of them*, p. 343.
Sect. 28. *The* Engliſh *Nation has always bin govern'd by it ſelf, or its Repreſentatives*, p. 345.
Sect. 29. *The King was never Maſter of the Soil*, p. 357.
Sect. 30. Henry *the Firſt was King of* England *by as good a Title as any of his Predeceſſors or Succeſſors*, p. 360.
Sect. 31. *Free Nations have a right of meeting, when and where they pleaſe, unleſs they deprive themſelves of it*, p. 363.
Sect. 32 *The Powers of Kings are ſo various, according to the Conſtitutions of ſeveral States, that no conſequence can be drawn to the prejudice or advantage of any one, merely from the name*, p. 368.
Sect. 33. *The Liberty of a People is the Gift of God and Nature*, p. 369.
Sect. 34. *No veneration paid, or honor confer'd upon a juſt and lawful Magiſtrate, can diminiſh the Liberty of a Nation*, p. 372.
Sect. 35. *The Authority given by our Law to the Acts perform'd by a King* de facto, *detract nothing from the Peoples Right of creating whom they pleaſe*, p. 374.
Sect. 36. *The general revolt of a Nation cannot be call'd a Rebellion*, p. 376.
Sect. 37. *The* Engliſh *Government was not ill conſtituted; the defects more lately obſerv'd proceeding from the change of manners and corruption of the times*, p. 380.
Sect. 38. *The power of calling and diſſolving Parliaments is not ſimply in the King. The variety of Cuſtoms in chuſing Parliamentmen, and the Errors a People may commit, neither prove that Kings are or ought to be abſolute*, p. 383.
Sect. 39. *Thoſe Kings only are Heads of the People, who are good, wiſe, and ſeek to advance no Intereſt but that of the Publick*, p. 388.
Sect. 40. *Good Laws preſcribe eaſy and ſafe Remedys againſt the Evils proceeding from the Vices or Infirmitys of the Magiſtrate; and when they fail, they muſt be ſupply'd*, p. 393.
Sect. 41. *The People for whom and by whom the Magiſtrate is created, can only judg whether he rightly performs his Office, or not*, p. 397.
Sect. 42. *The Perſon that wears the Crown cannot determin the Affairs which the Law refers to the King*, p. 401.
Sect. 43. *Proclamations are not Laws*, p. 405.
Sect. 44. *A People that is not free, cannot ſubſtitute Delegats*, p. 409.
Sect. 45. *The Legiſlative Power is always Arbitrary, and not to be truſted in the hands of any, who are not bound to obey the Laws they make*, p. 414.
Sect. 46. *The coercive Power of the Law proceeds from the Authority of Parliament*, p. 416.

DISCOURSES CONCERNING GOVERNMENT.

CHAP. I.

SECTION I.

INTRODUCTION.

HAVING lately seen a Book intitul'd *Patriarcha*, written by Sir *Robert Filmer*, concerning the Universal and undistinguish'd Right of all Kings, I thought a time of leisure might be well employ'd in examining his Doctrin, and the Questions arising from it; which seem so far to concern all Mankind, that, besides the Influence upon our future Life, they may be said to comprehend all that in this World deserves to be car'd for. If he say true, there is but one Government in the World that can have any thing of Justice in it: and those who have hitherto bin esteem'd the best and wisest of Men, for having constituted Commonwealths or Kingdoms; and taken much pains so to proportion the Powers of several Magistracys, that they might all concur in procuring the Publick Good; or so to divide the Powers between the Magistrats and People, that a well-regulated Harmony might be preserv'd in the whole, were the most unjust and foolish of all Men. They were not builders, but overthrowers of Governments: their business was to set up Aristocratical, Democratical or mix'd Goverments, in opposition to that Monarchy which by the immutable Laws of God and Nature is impos'd upon Mankind; or presumptuously to put Shackles upon the Monarch, who by the same Laws is to be absolute and uncontrol'd: They were rebellious and disobedient Sons, who rose up against their Father; and not only refus'd to hearken to his Voice, but made him bend to their Will. In their Opinion, such only deserv'd to be call'd Good Men, who endeavour'd to be good to Mankind; or to that Country to which they were more particularly related: and in as much as that Good consists in a Felicity of Estate, and Perfection of Person, they highly valued such as had endeavour'd to make Men better, wiser and happier. This they understood to be the end for which Men enter'd into Societys: And tho *Cicero* says, that Commonwealths were instituted for the obtaining of Justice, he contradicts them not, but comprehends all in that

CHAP. I.

word; becauſe 'tis juſt that whoſoever receives a Power, ſhould employ it wholly for the accompliſhment of the Ends for which it was given. This Work could be perform'd only by ſuch as excell'd in Virtue; but leſt they ſhould deflect from it, no Government was thought to be well conſtituted, unleſs the Laws prevail'd above the Commands of Men; and they were accounted as the worſt of Beaſts, who did not prefer ſuch a Condition before a Subjection to the fluctuating and irregular Will of a Man.

Potentiora Legum quam hominum Imperia. *Tacit.*

If we believe Sir *Robert*, all this is miſtaken. Nothing of this kind was ever left to the Choice of Men. They are not to inquire what conduces to their own good: God and Nature have put us into a way from which we are not to ſwerve: We are not to live to him, nor to our ſelves, but to the Maſter that he hath ſet over us. One Government is eſtabliſh'd over all, and no Limits can be ſet to the Power of the Perſon that manages it. This is the Prerogative, or, as another Author of the ſame Stamp calls it, the *Royal Charter* granted to Kings by God. They all have an equal right to it; Women and Children are Patriarchs; and the next in Blood, without any regard to Age, Sex, or other Qualitys of the Mind or Body, are Fathers of as many Nations as fall under their Power. We are not to examin, whether he or ſhe be young or old, virtuous or vicious, ſober minded or ſtark mad; the Right and Power is the ſame in all. Whether Virtue be exalted or ſuppreſt; whether he that bears the Sword be a Praiſe to thoſe that do well, and a Terror to thoſe that do evil; or a Praiſe to thoſe that do evil, and a Terror to ſuch as do well, it concerns us not; for the King muſt not loſe his Right, nor have his Power diminiſh'd on any account. I have bin ſometimes apt to wonder, how things of this nature could enter into the head of any Man: Or, if no Wickedneſs or Folly be ſo great, but ſome may fall into it, I could not well conceive why they ſhould publiſh it to the World. But theſe thoughts ceas'd, when I conſider'd that a People from all Ages in love with Liberty, and deſirous to maintain their own Privileges, could never be brought to reſign 'em, unleſs they were made to believe that in Conſcience they ought to do it; which could not be, unleſs they were alſo perſuaded to believe, that there was a Law ſet to all Mankind which none might tranſgreſs, and which put the Examination of all thoſe Matters out of their power. This is our Author's Work. By this it will appear whoſe Throne he ſeeks to advance, and whoſe Servant he is, whilſt he pretends to ſerve the King. And that it may be evident he has made uſe of Means ſutable to the Ends propos'd for the Service of his great Maſter, I hope to ſhew that he has not us'd one Argument that is not falſe, nor cited one Author whom he has not perverted and abus'd. Whilſt my work is ſo to lay open theſe Snares that the moſt ſimple may not be taken in them, I ſhall not examin how Sir *Robert* came to think himſelf a Man fit to undertake ſo great a Work, as to deſtroy the Principles, which from the beginning ſeem to have bin common to all Mankind; but only weighing the Poſitions and Arguments that he alledges, will, if there be either truth or ſtrength in them, confeſs the Diſcovery comes from him that gave us leaſt reaſon to expect it; and that in ſpite of the Antients, there is not in the World a Piece of Wood out of which a *Mercury* may not be made.

SECT.

SECT. II.

The common Notions of Liberty are not from School-Divines, but from Nature.

IN the firſt Lines of his Book he ſeems to denounce War againſt Mankind, endeavouring to overthrow the Principle of Liberty in which God created us, and which includes the chief Advantages of the Life we enjoy, as well as the greateſt helps towards the Felicity, that is the end of our hopes in the other. To this end he abſurdly imputes to the School-Divines that which was taken up by 'em as a common Notion, written in the Hearts of all Men, denied by none but ſuch as are degenerated into Beaſts, from whence they might prove ſuch Points as of themſelves were leſs evident. Thus did *Euclid* lay down certain Axioms, which none could deny that did not renounce common Senſe, from whence he drew the Proofs of ſuch Propoſitions as were leſs obvious to the Underſtanding; and they may with as much reaſon be accus'd of Paganiſm, who ſay that the Whole is greater than a Part, that two Halfs make the Whole, or that a ſtreight Line is the ſhorteſt way from Point to Point, as to ſay, that they who in Politicks lay ſuch Foundations as have bin taken up by Schoolmen and others as undeniable Truths, do therefore follow them, or have any regard to their Authority. Tho the Schoolmen were corrupt, they were neither ſtupid nor unlearned: They could not but ſee that which all Men ſaw, nor lay more approv'd Foundations, than, That Man is naturally free; That he cannot juſtly be depriv'd of that Liberty without cauſe, and that he dos not reſign it, or any part of it, unleſs it be in conſideration of a greater good, which he propoſes to himſelf. But if he unjuſtly imputes the Invention of this to School-Divines, he in ſome meaſure repairs his Fault in ſaying, *This has bin foſter'd by all ſucceeding Papiſts for good Divinity: The Divines of the reformed Churches have entertain'd it, and the Common People every where tenderly embrace it.* That is to ſay, all Chriſtian Divines, whether reform'd or unreform'd, do approve it, and the People every where magnify it, as the height of human Felicity. But *Filmer* and ſuch as are like to him, being neither reform'd nor unreform'd Chriſtians, nor of the People, can have no Title to Chriſtianity; and, in as much as they ſet themſelves againſt that which is the height of human Felicity, they declare themſelves Enemys to all that are concern'd in it, that is, to all Mankind.

But, ſays he, *They do not remember that the deſire of Liberty was the firſt cauſe of the Fall of Man:* and I deſire it may not be forgotten, that the Liberty aſſerted is not a Licentiouſneſs of doing what is pleaſing to every one againſt the Command of God; but an Exemption from all human Laws, to which they have not given their aſſent. If he would make us believe there was any thing of this in *Adam*'s Sin, he ought to have prov'd, that the Law which he tranſgreſt was impos'd upon him by Man, and conſequently that there was a Man to impoſe it; for it will eaſily appear that neither the reform'd or unreform'd Divines, nor the People following them, do place the Felicity of Man in an exemption from the Laws of God, but in a moſt perfect conformity to them. Our Saviour taught us *not to fear ſuch as could kill the Body, but him that could kill and caſt into*

CHAP. I.

Hell: And the Apoſtle tells us that *we ſhould obey God rather than Man.* It has bin ever hereupon obſerv'd, that they who moſt preciſely adhere to the Laws of God, are leaſt ſollicitous concerning the Commands of Men, unleſs they are well grounded; and thoſe who moſt delight in the glorious Liberty of the Sons of God, do not only ſubject themſelves to him, but are moſt regular Obſervers of the juſt Ordinances of Man, made by the conſent of ſuch as are concern'd according to the Will of God.

The Error of not obſerving this may perhaps deſerve to be pardon'd in a Man that had read no Books, as proceeding from Ignorance; if ſuch as are groſly ignorant can be excus'd, when they take upon them to write of ſuch Matters as require the higheſt knowledg: But in Sir *Robert* 'tis prevarication and fraud to impute to Schoolmen and Puritans that which in his firſt Page he acknowledg'd to be the Doctrin of all Reform'd and Unreform'd Chriſtian Churches, and that he knows to have bin the Principle in which the *Grecians*, *Italians*, *Spaniards*, *Gauls*, *Germans*, and *Britans*, and all other generous Nations ever liv'd, before the Name of Chriſt was known in the World; inſomuch that the baſe effeminate *Aſiaticks* and *Africans*, for being careleſs of their Liberty, or unable to govern themſelves, were by *Ariſtotle* and other wiſe Men call'd *Slaves by Nature*, and look'd upon as little different from Beaſts.

This which hath its Root in common Senſe, not being to be overthrown by Reaſon, he ſpares his pains of ſeeking any; but thinks it enough to render his Doctrin plauſible to his own Party, by joining the Jeſuits to *Geneva*, and coupling *Buchanan* to *Doleman*, as both maintaining the ſame Doctrin: tho he might as well have join'd the *Puritans* with the *Turks*, becauſe they all think that one and one makes two. But whoever marks the Proceedings of *Filmer* and his Maſters, as well as his Diſciples, will rather believe that they have learn'd from *Rome* and the Jeſuits to hate *Geneva*, than that *Geneva* and *Rome* can agree in any thing farther than as they are oblig'd to ſubmit to the Evidence of Truth; or that *Geneva* and *Rome* can concur in any Deſign or Intereſt that is not common to Mankind.

Theſe Men allow'd to the People a liberty of depoſing their Princes. This is a deſperate Opinion. Bellarmin *and* Calvin *look aſquint at it.* But why is this a deſperate Opinion? If Diſagreements happen between King and People, why is it a more deſperate Opinion to think the King ſhould be ſubject to the Cenſures of the People, than the People ſubject to the Will of the King? Did the People make the King, or the King make the People? Is the King for the People, or the People for the King? Did God create the *Hebrews* that *Saul* might reign over them? or did they, from an opinion of procuring their own Good, ask a King, that might judg them, and fight their Battels? If God's interpoſition, which ſhall be hereafter explain'd, dos alter the Caſe; did the *Romans* make *Romulus*, *Numa*, *Tullus Hoſtilius*, and *Tarquinius Priſcus* Kings? or did they make or beget the *Romans?* If they were made Kings by the *Romans*, 'tis certain they that made them ſought their own good in ſo doing; and if they were made by and for the City and People, I deſire to know if it was not better, that when their Succeſſors departed from the End of their Inſtitution, by endeavouring to deſtroy it, or all that was good in it, they ſhould be cenſur'd and ejected, than be permitted to ruin that People for whoſe good they were created? Was it more juſt that *Caligula* or *Nero* ſhould be ſuffer'd to deſtroy the poor Remains of the *Roman* Nobility and People, with the Nations ſubject to that Empire, than that the Race of ſuch Monſters

ſhould

ſhould be extinguiſh'd, and a great part of Mankind, eſpecially the beſt, againſt whom they were moſt fierce, preſerv'd by their Death? SECT. 2.

I preſume our Author thought theſe Queſtions might be eaſily decided; and that no more was requir'd to ſhew the foremention'd Aſſertions were not at all deſperate, than to examin the Grounds of them; but he ſeeks to divert us from this enquiry, by propoſing the dreadful Conſequences of ſubjecting Kings to the Cenſures of their People: whereas no Conſequence can deſtroy any Truth; and the worſt of this is, That if it were receiv'd, ſome Princes might be reſtrain'd from doing Evil, or puniſh'd if they will not be reſtrain'd. We are therefore only to conſider whether the People, Senat, or any Magiſtracy made by and for the People, have, or can have ſuch a Right; for if they have, whatſoever the Conſequences may be, it muſt ſtand: And as the one tends to the Good of Mankind in reſtraining the Luſts of wicked Kings; the other expoſes 'em without Remedy to the Fury of the moſt ſavage of all Beaſts. I am not aſham'd in this to concur with *Buchanan*, *Calvin*, or *Bellarmin*; and without Envy leave to *Filmer* and his Aſſociats the Glory of maintaining the contrary.

But notwithſtanding our Author's averſion to Truth, he confeſſes, *That* Hayward, Blackwood, Barclay, *and others who have bravely vindicated the Right of Kings in this Point, do with one conſent admit, as an unqueſtionable Truth, and aſſent unto the natural Liberty and Equality of Mankind, not ſo much as once queſtioning or oppoſing it.* And indeed I believe, that tho ſince the Sin of our firſt Parents the Earth has brought forth Briars and Brambles, and the Nature of Man has bin fruitful only in Vice and Wickedneſs; neither the Authors he mentions, nor any others, have had impudence enough to deny ſuch evident Truth as ſeems to be planted in the Hearts of all Men; or to publiſh Doctrins ſo contrary to common Senſe, Virtue, and Humanity, till theſe Times. The production of *Laud*, *Manwaring*, *Sibthorp*, *Hobbs*, *Filmer* and *Heylin*, ſeems to have bin reſerv'd as an additional Curſe to compleat the Shame and Miſery of our Age and Country. Thoſe who had Wit and Learning, with ſomething of Ingenuity and Modeſty, tho they believ'd that Nations might poſſibly make an ill uſe of their Power, and were very deſirous to maintain the Cauſe of Kings, as far as they could put any good colour upon it; yet never denied that ſome had ſuffer'd juſtly (which could not be, if there were no Power of judging them) nor ever aſſerted any thing that might arm them with an irreſiſtible Power of doing miſchief, animate them to perſiſt in the moſt flagitious Courſes, with aſſurance of perpetual Impunity, or engage Nations in an inevitable neceſſity of ſuffering all manner of Outrages. They knew that the Actions of thoſe Princes who were not altogether deteſtable, might be defended by particular Reaſons drawn from them, or the Laws of their Country; and would neither undertake the defence of ſuch as were abominable, nor bring Princes, to whom they wiſh'd well, into the odious extremity of juſtifying themſelves by Arguments that favour'd *Caligula* and *Nero*, as well as themſelves, and that muſt be taken for a Confeſſion, that they were as bad as could be imagin'd; ſince nothing could be ſaid for them that might not as well be applied to the worſt that had bin, or could be. But *Filmer*, *Heylin*, and their Aſſociats, ſcorning to be reſtrain'd by ſuch conſiderations, boldly lay the Ax to the Root of the Tree, and rightly enough affirm, *That the whole Fabrick of that which they call Popular Sedition would fall to the ground, if the Principle of natural Liberty were remov'd.* And on the other hand it muſt be acknowledg'd that the whole Fabrick of Tyranny will

CHAP. I. be much weaken'd, if we prove, That Nations have a right to make their own Laws, conſtitute their own Magiſtrats; and that ſuch as are ſo conſtituted, owe an account of their Actions to thoſe by whom, and for whom they are appointed.

SECT. III.

Implicit Faith belongs to Fools, and Truth is comprehended by examining Principles.

WHILST *Filmer*'s buſineſs is to overthrow Liberty and Truth, he, in his Paſſage, modeſtly profeſſes *not to meddle with Myſterys of State*, or *Arcana Imperii*. He renounces thoſe Inquirys thro an *implicit Faith*, which never enter'd into the head of any but Fools, and ſuch as, thro a careleſneſs of the Point in queſtion, acted as if they were ſo. This is the Foundation of the Papal Power, and it can ſtand no longer than thoſe that compoſe the *Roman* Church can be perſuaded to ſubmit their Conſciences to the Word of the Prieſts, and eſteem themſelves diſcharg'd from the neceſſity of ſearching the Scriptures, in order to know whether the things that are told them are true or falſe. This may ſhew whether our Author or thoſe of *Geneva* do beſt agree with the *Roman* Doctrin. But his Inſtance is yet more ſottiſh than his Profeſſion: *An Implicit Faith*, ſays he, *is given to the meaneſt Artificer*. I wonder by whom! Who will wear a Shoo that hurts him, becauſe the Shoo-maker tells him 'tis well made? or who will live in a Houſe that yields no defence againſt the extremitys of Weather, becauſe the Maſon or Carpenter aſſures him 'tis a very good Houſe? Such as have Reaſon, Underſtanding, or common Senſe, will, and ought to make uſe of it in thoſe things that concern themſelves and their Poſterity, and ſuſpect the Words of ſuch as are intereſted in deceiving or perſuading them not to ſee with their own Eyes, that they may be more eaſily deceiv'd. This Rule obliges us ſo far to ſearch into Matters of State, as to examin the Original Principles of Government in general, and of our own in particular. We cannot diſtinguiſh Truth from Falſhood, Right from Wrong, or know what Obedience we owe to the Magiſtrat, or what we may juſtly expect from him, unleſs we know what he is, why he is, and by whom he is made to be what he is. Theſe perhaps may be call'd *Myſterys of State*, and ſome would perſuade us they are to be eſteem'd *Arcana*; but whoſoever confeſſes himſelf to be ignorant of 'em, muſt acknowledg he is uncapable of giving any judgment upon things relating to the Superſtructure, and in ſo doing evidently ſhews to others, that they ought not at all to hearken to what he ſays.

His Argument to prove this is more admirable. *If an Implicit Faith*, ſays he, *is given to the meaneſt Artificer in his Craft, much more to a Prince in the profound Secrets of Government*. But where is the Conſequence? If I truſt to the judgment of an Artificer, or one of a more ingenuous Profeſſion, 'tis not becauſe he is of it, but becauſe I am perſuaded he dos well underſtand it, and that he will be faithful to me in things relating to his Art. I do not ſend for *Lower* or *Micklethwait* when I am ſick, nor ask the Advice of *Maynard* or *Jones* in a Suit of Law, becauſe the firſt are Phyſicians, and the other Lawyers; but becauſe I think them wiſe, learned,

 diligent,

diligent, and faithful, there being a multitude of others who go under the ſame name, whoſe Opinion I would never ask. Therefore if any Concluſion can be drawn from thence in favour of Princes, it muſt be of ſuch as have all the Qualitys of Ability and Integrity, that ſhould create this confidence in me; or it muſt be prov'd that all Princes, in as much as they are Princes, have ſuch Qualitys. No general Concluſion can be drawn from the firſt Caſe, becauſe it muſt depend upon the Circumſtances, which ought to be particularly prov'd: And if the other be aſſerted, I deſire to know whether *Caligula*, *Claudius*, *Nero*, *Vitellius*, *Domitian*, *Commodus*, *Heliogabalus*, and others not unlike to them, had thoſe admirable Endowments, upon which an Implicit Faith ought to have bin grounded; how they came by them; and whether we have any Promiſe from God, that all Princes ſhould for ever excel in thoſe Vertues, or whether by experience we find that they do ſo. If they are or have bin wanting in any, the whole falls to the ground; for no Man enjoys as a Prince that which is not common to all Princes: And if every Prince has not Wiſdom to underſtand theſe profound Secrets, Integrity to direct him, according to what he knows to be good, and a ſufficient meaſure of Induſtry and Valour to protect me, he is not the Artificer to whom the Implicit Faith is due. His Eyes are as ſubject to dazle as my own. But 'tis a ſhame to inſiſt on ſuch a Point as this. We ſee Princes of all ſorts; they are born as other Men: The vileſt Flatterer dares not deny that they are wiſe or fooliſh, good or bad, valiant or cowardly, like other Men: and the Crown dos neither beſtow extraordinary Qualitys, ripen ſuch as are found in Princes ſooner than in the meaneſt, nor preſerve them from the decays of Age, Sickneſs, or other Accidents, to which all Men are ſubject. And if the greateſt King in the World falls into them, he is as uncapable of that myſterious Knowledg, and his Judgment is as little to be relied on, as that of the pooreſt Peaſant. SECT. 3.

This Matter is not mended by ſending us to ſeek thoſe Vertues in the Miniſters, which are wanting in the Prince. The ill effects of *Rehoboam*'s Folly could not be corrected by the Wiſdom of *Solomon*'s Counſellors: He rejected them; and ſuch as are like to him will always do the ſame thing. *Nero* advis'd with none but Muſicians, Players, Chariot-drivers, or the abominable Miniſters of his Pleaſures and Crueltys. *Arcadius* his Senat was chiefly compos'd of Buffoons and Cooks, influenc'd by an old raſcally Eunuch. And 'tis an eternal Truth, that a weak or wicked Prince can never chuſe a wiſe Council, nor receive any benefit by one that is impos'd upon him, unleſs they have a Power of acting without him, which would render the Government in effect Ariſtocratical, and would probably diſpleaſe our Author as much as if it were ſo in name alſo. Good and wiſe Counſellors do not grow up like Muſhrooms; great Judgment is requir'd in chuſing and preparing them. If a weak or vicious Prince ſhould be ſo happy to find them choſen to his hand, they would avail him nothing. There will ever be variety of Opinions amongſt 'em; and he that is of a perverted Judgment will always chuſe the worſe of thoſe that are propos'd, and favour the worſt Men, as moſt like to himſelf. Therefore if this Implicit Faith be grounded upon a ſuppoſition of profound Wiſdom in the Prince, the Foundation is overthrown, and cannot ſtand; for to repoſe confidence in the Judgment and Integrity of one that has none, is the moſt brutiſh of all Follys. So that if a Prince may have or want the Qualitys, upon which my Faith in him can be rationally grounded, I cannot yield the Obedience he requires, un-

CHAP. I.

less I search into the Secrets relating to his Person and Commands, which he forbids. I cannot know how to obey, unless I know in what, and to whom: Nor in what, unless I know what ought to be commanded: Nor what ought to be commanded, unless I understand the Original Right of the Commander, which is the great *Arcanum*. Our Author finding himself involv'd in many Difficultys, proposes an Expedient as ridiculous as any thing that had gone before, being nothing more than an absurd begging the main question, and determining it without any shadow of proof. He enjoins an active or passive Obedience, before he shews what should oblige or persuade us to it. This indeed were a compendious way of obviating that which he calls *Popular Sedition*, and of exposing all Nations, that fall under the Power of Tyrants, to be destroy'd utterly by them. *Nero* or *Domitian* would have desir'd no more, than that those who would not execute their wicked Commands, should patiently have suffer'd their Throats to be cut by such as were less scrupulous: And the World that had suffer'd those Monsters for some years, must have continu'd under their Fury, till all that was good and virtuous had bin abolish'd. But in those Ages and Parts of the World, where there has bin any thing of Vertue and Goodness, we may observe a third sort of Men, who would neither do Villanys, nor suffer more than the Laws did permit, or the consideration of the publick Peace did require. Whilst Tyrants with their Slaves, and the Instruments of their Cruelty, were accounted the Dregs of Mankind, and made the objects of detestation and scorn, these Men who deliver'd their Countrys from such Plagues were thought to have something of Divine in them, and have bin famous above all the rest of Mankind to this day. Of this sort were *Pelopidas*, *Epaminondas*, *Thrasibulus*, *Harmodius*, *Aristogiton*, *Philopemen*, *Lucius Brutus*, *Publius Valerius*, *Marcus Brutus*, *C. Cassius*, *M. Cato*, with a multitude of others amongst the antient Heathens. Such as were Instruments of the like Deliverances amongst the *Hebrews*, as *Moses*, *Othniel*, *Ehud*, *Barac*, *Gideon*, *Sampson*, *Jephtha*, *Samuel*, *David*, *Jehu*, the *Maccabees* and others, have from the Scriptures a certain Testimony of the Righteousness of their Proceedings, when they neither would act what was evil, nor suffer more than was reasonable. But lest we should learn by their Examples, and the Praises given to them, our Author confines the Subject's choice to acting or suffering, that is, doing what is commanded, or lying down to have his Throat cut, or to see his Family and Country made desolate. This he calls giving to *Cesar* that which is *Cesar's*; whereas he ought to have consider'd that the Question is not, whether that which is *Cesar's* should be render'd to him, for that is to be done to all Men; but who is *Cesar*, and what doth of right belong to him, which he no way indicates to us: so that the Question remains intire, as if he had never mention'd it, unless we do in a compendious way take his word for the whole.

SECT. IV.

The Rights of particular Nations cannot subsist, if General Principles contrary to them are receiv'd as true.

NOtwithstanding this, our Anthor, if we will believe him, *dos not question or quarrel at the Rights or Libertys of this or any other Nation.* He only denies they can have any such, in subjecting them necessarily and univer-

univerſally to the will of one Man; and ſays not a word that is not applicable to every Nation in the World, as well as to our own. But as the bitterneſs of his malice ſeems to be moſt eſpecially directed againſt *England*, I am inclin'd to believe he hurts other Countrys only by accident: as the famous * *French* Lady intended only to poiſon her Father, Husband, Brother, and ſome more of her neareſt Relations; but rather than they ſhould eſcape, deſtroy'd many other Perſons of Quality, who at ſeveral times din'd with them: and if that ought to excuſe her, I am content he alſo ſhould paſs uncenſur'd, tho his Crimes are incomparably greater than thoſe for which ſhe was condemn'd, or than any can be which are not of a publick extent. SECT. 5.

* *The Marchioneſs of* Brinvilliers.

SECT. V.

To depend upon the Will of a Man is Slavery.

THis, as he thinks, is farther ſweeten'd, by aſſerting, that he dos not inquire what the Rights of a People are, but from whence; not conſidering, that whilſt he denies they can proceed from the Laws of natural Liberty, or any other Root than the Grace and Bounty of the Prince, he declares they can have none at all. For as Liberty ſolely conſiſts in an independency upon the Will of another, and by the name of Slave we underſtand a Man, who can neither diſpoſe of his Perſon nor Goods, but enjoys all at the will of his Maſter; there is no ſuch thing in nature as a Slave, if thoſe Men or Nations are not Slaves, who have no other title to what they enjoy, than the grace of the Prince, which he may revoke whenſoever he pleaſes. But there is more than ordinary Extravagance in his Aſſertion, That *the greateſt Liberty in the World is for a People to live under a Monarch*, when his whole Book is to prove, That this Monarch has his Right from God and Nature, is endow'd with an unlimited Power of doing what he pleaſes, and can be reſtrain'd by no Law. If it be Liberty to live under ſuch a Government, I deſire to know what is Slavery. It has bin hitherto believ'd in the World, that the *Aſſyrians*, *Medes*, *Arabs*, *Egyptians*, *Turks*, and others like them, liv'd in Slavery, becauſe their Princes were Maſters of their Lives and Goods: Whereas the *Grecians*, *Italians*, *Gauls*, *Germans*, *Spaniards*, and *Carthaginians*, as long as they had any Strength, Vertue or Courage amongſt 'em, were eſteem'd free Nations, becauſe they abhor'd ſuch a Subjection. They were, and would be govern'd only by Laws of their own making: *Potentiora erant Legum quam hominum Imperia.* Even their *Princes had the Authority or Credit of Perſuading, rather than the Power of Commanding.* But all this was miſtaken: Theſe Men were Slaves, and the *Aſiaticks* were Freemen. By the ſame rule the *Venetians*, *Switzers*, *Griſons*, and *Hollanders*, are not free Nations: but Liberty in its perfection is enjoy'd in *France*, and *Turky*. The Intention of our Anceſtors was, without doubt, to eſtabliſh this amongſt us by *Magna Charta*, and other preceding or ſubſequent Laws; but they ought to have added one clauſe, That the Contents of 'em ſhould be in force only ſo long as it pleas'd the King. King *Alfred*, upon whoſe Laws *Magna Charta* was grounded, when he ſaid the *Engliſh* Nation was as free as the internal thoughts of a Man, did only mean, that it ſhould be ſo as long as it pleas'd their Maſter. This it ſeems

C. Tacit. Ibid.

CHAP. I.

was the end of our Law, and we who are born under it, and are deſcended from ſuch as have ſo valiantly defended their Rights againſt the Encroachments of Kings, have follow'd after vain ſhadows, and without the expence of Sweat, Treaſure, or Blood, might have ſecur'd our beloved Liberty, by caſting all into the King's hands.

We owe the diſcovery of theſe Secrets to our Author, who after having gravely declar'd 'em, thinks no offence ought to be taken at the freedom he aſſumes of examining things relating to the Liberty of Mankind, becauſe he has the Right which is common to all. But he ought to have conſider'd, that in aſſerting that Right to himſelf, he allows it to all Mankind. And as the temporal good of all Men conſiſts in the preſervation of it, he declares himſelf to be their mortal Enemy, who endeavours to deſtroy it. If he were alive, this would deſerve to be anſwer'd with Stones rather than Words. He that oppugns the publick Liberty, overthrows his own, and is guilty of the moſt brutiſh of all Follys, whilſt he arrogates to himſelf that which he denies to all Men.

I cannot but commend his Modeſty and Care *not to detract from the Worth of Learned Men*; but it ſeems they were all ſubject to error, except himſelf, who is render'd infallible thro Pride, Ignorance, and Impudence. But if *Hooker* and *Ariſtotle* were wrong in their Fundamentals concerning natural Liberty, how could they be in the right when they built upon it? Or if they did miſtake, how can they deſerve to be cited? or rather, why is ſuch care taken to pervert their Senſe? It ſeems our Author is by their Errors brought to the knowledg of the Truth. *Men have heard of a Dwarf ſtanding on the Shoulders of a Giant, who ſaw farther than the Giant; but now that the Dwarf ſtanding on the Ground ſees that which the Giant did overlook*, we muſt learn from him. If there be Senſe in this, the Giant muſt be blind, or have ſuch eyes only as are of no uſe to him. He minded only the things that were far from him: Theſe Great and Learned Men miſtook the very Principle and Foundation of all their Doctrin. If we believe our Author, this misfortune befel them, becauſe they too much truſted to the Schoolmen. He names *Ariſtotle*, and I preſume intends to comprehend *Plato*, *Plutarch*, *Thucydides*, *Xenophon*, *Polybius*, and all the antient *Grecians*, *Italians*, and others, who aſſerted the natural Freedom of Mankind, only in imitation of the Schoolmen, to advance the Power of the Pope; and would have compaſt their deſign, if *Filmer* and his Aſſociats had not oppos'd 'em. Theſe Men had taught us to make the *unnatural Diſtinction between Royaliſt and Patriot*; and kept us from ſeeing, *That the relation between King and People is ſo great that their well-being is reciprocal.* If this be true, how came *Tarquin* to think it good for him to continue King at *Rome*, when the People would turn him out? or the People to think it good for them to turn him out, when he deſir'd to continue in? Why did the *Syracuſians* deſtroy the Tyranny of *Dionyſius*, which he was not willing to leave, till he was pull'd out by the heels? How could *Nero* think of burning *Rome?* Or why did *Caligula* wiſh the People had but one Neck, that he might ſtrike it off at one blow, if their Welfare was thus reciprocal? 'Tis not enough to ſay, Theſe were wicked or mad Men; for other Princes may be ſo alſo, and there may be the ſame reaſon of differing from them. For if the Propoſition be not univerſally true, 'tis not to be receiv'd as true in relation to any, till it be particularly prov'd; and then 'tis not to be imputed to the Quality of Prince, but to the perſonal Vertue of the Man.

I do not find any great matters in the paſſages taken out of *Bellarmin*, which, our Author ſays, comprehend the ſtrength of all that ever he had heard, read, or ſeen produc'd for the natural Liberty of the Subject: but he not mentioning where they are to be found, I do not think my ſelf oblig'd to examin all his Works, to ſee whether they are rightly cited or not; however there is certainly nothing new in them: We ſee the ſame, as to the ſubſtance, in thoſe who wrote many Ages before him, as well as in many that have liv'd ſince his time, who neither minded him, nor what he had written. I dare not take upon me to give an account of his Works, having read few of them; but as he ſeems to have laid the Foundation of his Diſcourſes in ſuch common Notions as were aſſented to by all Mankind, thoſe who follow the ſame method have no more regard to Jeſuitiſm and Popery, tho he was a Jeſuit and a Cardinal, than they who agree with *Faber* and other Jeſuits in the Principles of Geometry, which no ſober Man did ever deny. SECT. 6.

SECT. VI.

God leaves to Man the choice of Forms in Government; and thoſe who conſtitute one Form, may abrogate it.

BUT Sir *Robert deſires to make Obſervations on* Bellarmin's *words, before he examins or refutes them*; and indeed it were not poſſible to make ſuch ſtuff of his Doctrin as he dos, if he had examin'd or did underſtand it. Firſt, he very wittily concludes, *That if by the Law of God, the Power be immediatly in the People, God is the Author of a Democracy:* And why not as well as of a Tyranny? Is there any thing in it repugnant to the Being of God? Is there more reaſon to impute to God *Caligula*'s Monarchy, than the Democracy of *Athens?* Or is it more for the Glory of God, to aſſert his Preſence with the *Ottoman* or *French* Monarchs, than with the popular Governments of the *Switſers* and *Griſons?* Is Pride, Malice, Luxury and Violence ſo ſutable to his Being, that they who exerciſe them are to be reputed his Miniſters? And is Modeſty, Humility, Equality, and Juſtice ſo contrary to his Nature, that they who live in them ſhould be thought his Enemys? Is there any abſurdity in ſaying, that ſince God in Goodneſs and Mercy to Mankind, has with an equal hand given to all the Benefit of Liberty, with ſome meaſure of underſtanding how to employ it, 'tis lawful for any Nation, as occaſion ſhall require, to give the Exerciſe of that Power to one or more Men, under certain Limitations or Conditions; or to retain it in themſelves, if they think it good for them? If this may be done, we are at the end of all Controverſys concerning one Form of Government eſtabliſh'd by God, to which all Mankind muſt ſubmit; and we may ſafely conclude, that having given to all Men in ſome degree a Capacity of judging what is good for themſelves, he has granted to all likewiſe a Liberty of inventing ſuch Forms as pleaſe them beſt, without favouring one more than another.

His ſecond Obſervation is grounded upon a Falſity in matter of Fact: *Bellarmin* dos not ſay, that Democracy is an Ordinance of God more than any other Government; nor that the People have no Power to make uſe of their Right; but that they do, that is to ſay ordinarily, tranſmit the Exerciſe of it to one or more. And 'tis certain they do ſometimes,

CHAP. I.

eſpecially in ſmall Citys, retain it in themſelves: But whether that were obſerv'd or not by *Bellarmin*, makes nothing to our Cauſe, which we defend, and not him.

The next Point is ſubtile, and he thinks thereby to have brought *Bellarrmin*, and ſuch as agree with his Principle, to a Nonplus. He doubts who ſhall judg of the lawful cauſe of changing the Government, and ſays, It is *a peſtilent Concluſion to place that Power in the Multitude.* But why ſhould this be eſteem'd peſtilent? or to whom? If the allowance of ſuch a Power to the Senat was peſtilent to *Nero*, it was beneficial to Mankind; and the denial of it, which would have given to *Nero* an opportunity of continuing in his Villanys, would have bin peſtilent to the beſt of Men, whom he endeavour'd to deſtroy, and to all others that receiv'd benefit from them. But this Queſtion depends upon another; for if Governments are conſtituted for the Pleaſure, Greatneſs or Profit of one Man, he muſt not be interrupted; for the oppoſing of his Will, is to overthrow the Inſtitution. On the other ſide, if the Good of the Governed be ſought, care muſt be taken that the End be accompliſh'd, tho it be with the prejudice of the Governor: If the Power be originally in the Multitude, and one or more Men, to whom the exerciſe of it, or a part of it was committed, had no more than their Brethren, till it was confer'd on him or them, it cannot be believ'd that rational Creatures would advance one or a few of their Equals above themſelves, unleſs in conſideration of their own Good; and then I find no inconvenience in leaving to them a right of judging, whether this be duly perform'd or not. We ſay in general, *He that inſtitutes, may alſo abrogate*, moſt eſpecially when the Inſtitution is not only by, but for himſelf: If the Multitude therefore do inſtitute, the Multitude may abrogate; and they themſelves, or thoſe who ſucceed in the ſame Right, can only be fit Judges of the performance of the Ends of the Inſtitution. Our Author may perhaps ſay, The publick Peace may be hereby diſturb'd: but he ought to know, There can be no Peace, where there is no Juſtice; nor any Juſtice, if the Government inſtituted for the good of a Nation be turn'd to its ruin. But in plain Engliſh, the Inconvenience with which ſuch as he endeavour to affright us, is no more than that He or They, to whom the Power is given, may be reſtrain'd or chaſtis'd, if they betray their Truſt; which I preſume will diſpleaſe none, but ſuch as would rather ſubject *Rome* with the beſt part of the World depending on it, to the Will of *Caligula* or *Nero*, than *Caligula* or *Nero* to the Judgment of the Senat and People; that is, rather to expoſe many great and brave Nations to be deſtroy'd by the rage of a ſavage Beaſt, than ſubject that Beaſt to the Judgment of all, or the choiceſt Men of them, who can have no intereſt to pervert them, or other reaſon to be ſevere to him, than to prevent the Miſchiefs he would commit, and to ſave the People from ruin.

Cujus eſt inſtituere, ejus eſt abrogare.

In the next place he recites an Argument of *Bellarmin*, That *'tis evident in Scripture God has ordain'd Powers; but God has given them to no particular Perſon, becauſe by Nature all Men are equal; therefore he has given Power to the People or Multitude.* I leave him to untie that Knot if he can; but, as 'tis uſual with Impoſtors, he goes about by Surmiſes to elude the Force of this Argument, pretending that in ſome other place he had contradicted himſelf, and acknowledg'd that every Man was Prince of his Poſterity; *becauſe that if many Men had bin created together, they ought all to have bin Princes of their Poſterity.* But 'tis not neceſſary to argue upon Paſſages

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cited from Authors, when he that cites 'em may be juſtly ſuſpected of Fraud, and neither indicates the Place nor Treatiſe, leſt it ſhould be detected; moſt eſpecially when we are no way concern'd in the Author's Credit. I take *Bellarmin*'s Argument to be ſtrong; and if he in ſome place did contradict it, the hurt is only to himſelf: but in this particular I ſhould not think he did it, tho I were ſure our Author had faithfully repeated his words; for in allowing every Man to be Prince of his Poſterity, he only ſays, every Man ſhould be chief in his own Family, and have a Power over his Children, which no man denies: But he dos not underſtand Latin, who thinks the word *Princeps* doth in any degree ſignify an abſolute Power, or a right of tranſmitting it to his Heirs and Succeſſors, upon which the Doctrin of our Author wholly depends. On the contrary, The ſame Law that gave to my Father a Power over me, gives me the like over my Children; and if I had a thouſand Brothers, each of them would have the ſame over their Children. *Bellarmin*'s Argument therefore being no way enervated by the alledg'd Paſſage, I may juſtly inſiſt upon it, and add, That God has not only declar'd in Scripture, but written on the Heart of every Man, that as it is better to be cloth'd, than to go naked; to live in a Houſe, than to lie in the Fields; to be defended by the united Force of a Multitude, than to place the hopes of his Security ſolely in his own ſtrength; and to prefer the Benefits of Society, before a ſavage and barbarous Solitude: he has alſo taught them to frame ſuch Societys, and to eſtabliſh ſuch Laws as were neceſſary to preſerve them. And we may as reaſonably affirm, that Mankind is for ever oblig'd to uſe no other Clothes than leather Breeches, like *Adam*; to live in hollow Trees, and eat Acorns, or to ſeek after the Model of his Houſe for a Habitation, and to uſe no Arms except ſuch as were known to the Patriarchs; as to think all Nations for ever oblig'd to be govern'd as they govern'd their Familys. This I take to be the genuin ſenſe of the Scripture, and the moſt reſpectful way of interpreting the Places relating to our purpoſe. 'Tis hard to imagin, that God who has left all things to our choice, that are not evil in themſelves, ſhould tie us up in this; and utterly incredible that he ſhould impoſe upon us a neceſſity of following his Will, without declaring it to us. Inſtead of conſtituting a Government over his People, conſiſting of many Parts, which we take to be a Model fit to be imitated by others, he might have declar'd in a word, That the eldeſt Man of the eldeſt Line ſhould be King; and that his Will ought to be their Law. This had bin more ſutable to the Goodneſs and Mercy of God, than to leave us in a dark Labyrinth, full of Precipices; or rather, to make the Government given to his own People, a falſe Light to lead us to deſtruction. This could not be avoided, if there were ſuch a thing as our Author calls a *Lord Paramount over his Childrens Children to all Generations.* We ſee nothing in Scripture, of Precept or Example, that is not utterly abhorrent to this Chimera. The only ſort of Kings mention'd there with approbation, is ſuch a one *as may not raiſe his Heart above his Brethren.* If God had conſtituted a Lord Paramount with an abſolute Power, and multitudes of Nations were to labour and fight for his Greatneſs and Pleaſure, this were to raiſe his Heart to a height, that would make him forget he was a Man. Such as are vers'd in Scripture, not only know that it neither agrees with the Letter or Spirit of that Book; but that it is unreaſonable in it ſelf, unleſs he were of a Species different from the reſt of Mankind. His exaltation would not agree with God's Indulgence to his Creatures, tho he were the better for it; much leſs when probably he would

SECT. 6.

Deut. 17.

CHAP. I. would be made more unhappy, and worſe, by the Pride, Luxury and other Vices, that always attend the higheſt Fortunes. 'Tis no leſs incredible that God, who diſpoſes all things in Wiſdom and Goodneſs, and appoints a due Place for all, ſhould, without diſtinction, ordain ſuch a Power, to every one ſucceeding in ſuch a Line, as cannot be executed; the Wiſe would refuſe, and Fools cannot take upon 'em the burden of it, without ruin to themſelves, and ſuch as are under them: or expoſe Mankind to a multitude of other Abſurditys and Miſchiefs; ſubjecting the Aged to be govern'd by Children; the Wiſe to depend on the Will of Fools; the Strong and Valiant, to expect defence from the Weak or Cowardly; and all in general to receive Juſtice from him, who neither knows nor cares for it.

SECT. VII.

Abraham *and the Patriarchs were not Kings.*

IF any Man ſay, that we are not to ſeek into the depth of God's Counſels; I anſwer, That if he had, for Reaſons known only to himſelf, affix'd ſuch a Right to any one Line, he would have ſet a Mark upon thoſe who come of it, that Nations might know to whom they owe Subjection; or given ſome teſtimony of his Preſence with *Filmer* and *Heylin*, if he had ſent them to reveal ſo great a Myſtery. Till that be done, we may ſafely look upon them as the worſt of Men, and teachers only of Lies and Follys. This perſuades me little, to examin what would have bin, if God had it once created many Men, or the Concluſions that can be drawn from *Adam*'s having bin alone. For nothing can be more evident than that if many had bin created, they had bin all equal, unleſs God had given a Preference to one. All their Sons had inherited the ſame Right after their death; and no Dream was ever more empty, than his Whimſy of *Adam*'s Kingdom, or that of the enſuing Patriarchs. To ſay the truth, 'tis hard to ſpeak ſeriouſly of *Abraham*'s Kingdom, or to think any Man to be in earneſt who mentions it. He was a Stranger, and a Pilgrim in the Land where he liv'd, and pretended to no Authority beyond his own Family, which conſiſted only of a Wife and Slaves. He liv'd with *Lot* as with his Equal, and would have no Conteſt with him, becauſe they were Brethren. His Wife and Servants could neither make up, nor be any part of a Kingdom, in as much as the deſpotical Government, both in Practice and Principle, differs from the Regal. If his Kingdom was to be grounded on the Paternal Right, it vaniſh'd away of it ſelf; he had no Child: *Eliezer* of *Damaſcus*, for want of a better, was to be his Heir: *Lot*, tho his Nephew, was excluded: He durſt not own his own Wife: He had not one foot of Land, till he bought a Field for a burying-place: His three hundred and eighteen Men were Servants, (bought according to the cuſtom of thoſe days) or their Children; and the War he made with them, was like to *Gideon*'s Enterprize; which ſhews only that God can ſave by a few as well as by many, but makes nothing to our Author's purpoſe. For if they had bin as many in number as the Army of *Semiramis*, they could have no relation to the Regal, much leſs to the Paternal Power; for a Father dos not buy, but beget Children.

Notwithſtanding this, our Author beſtows the proud Title of Lord Paramount upon him, and tranſmits it to *Iſaac*, who was indeed a King like his Father, great, admirable, and glorious in Wiſdom and Holineſs, but utterly void of all worldly ſplendor or power. This ſpiritual Kingdom was inherited by *Jacob*, whoſe Title to it was not founded on Prerogative of Birth, but Election and peculiar Grace; but he never enjoy'd any other worldly Inheritance, than the Field and Cave which *Abraham* had bought for a burying-place, and the Goods he had gain'd in *Laban*'s Service. SECT. 8.

The Example of *Judah* his Sentence upon *Thamar* is yet farther from the purpoſe, if it be poſſible; for he was then a Member of a privat Family, the fourth Son of a Father then living; neither in poſſeſſion, nor under the promiſe of the Privileges of Primogeniture, tho *Ruben*, *Simeon* and *Levi* fell from it by their Sins. Whatſoever therefore the Right was, which belong'd to the Head of the Family, it muſt have bin in *Jacob*; but as he profeſt himſelf a keeper of Sheep, as his Fathers had bin, the exerciſe of that Employment was ſo far from Regal, that it deſerves no explication. If that Act of *Judah* is to be imputed to a Royal Power, I have as much as I ask: He, tho living with his Father, and elder Brothers, when he came to be of Age to have Children, had the ſame Power over ſuch, as were of, or came into his Family, as his Father had over him; for none can go beyond the Power of Life and Death: The ſame in the utmoſt extent, cannot at the ſame time equally belong to many. If it be divided equally, it is no more than that Univerſal Liberty which God has given to Mankind; and every Man is a King till he deveſts himſelf of his Right, in conſideration of ſomething that he thinks better for him.

SECT. VIII.

Nimrod *was the firſt King, during the Life of* Chuſh, Cham, Shem, *and* Noah.

THE Creation is exactly deſcrib'd in the Scripture; but we know ſo little of what paſt between the finiſhing of it and the Flood, that our Author may ſay what he pleaſes, and I may leave him to ſeek his Proofs where he can find them. In the mean time I utterly deny, that any Power did remain in the Heads of Familys after the Flood, that dos in the leaſt degree reſemble the Regal in Principle or Practice. If in this I am miſtaken, ſuch Power muſt have bin in *Noah*, and tranſmitted to one of his Sons. The Scripture ſays only, that he built an Altar, ſacrific'd to the Lord, was a Husbandman, planted a Vineyard, and perform'd ſuch Offices as bear nothing of the Image of a King, for the ſpace of three hundred and fifty Years. We have reaſon to believe, that his Sons after his Death continu'd in the ſame manner of Life, and the Equality properly belonging to Brethren. 'Tis not eaſy to determin, whether *Shem* or *Japhet* were the Elder; but *Ham* is declar'd to be the younger: Gen. 9. and *Noah*'s Bleſſing to *Shem* ſeems to be purely Prophetical and Spiritual, of what ſhould be accompliſh'd in his Poſterity; with which *Japhet* ſhould be perſuaded to join. If it had bin worldly, the whole Earth muſt have bin brought under him, and have for ever continu'd in his Race, which never was accompliſh'd, otherwiſe than in the Spiritual Kingdom of

CHAP. I. Chriſt, which relates not to our Author's Lord Paramount.

As to earthly Kings, the firſt of 'em was *Nimrod*, the ſixth Son of *Chuſh* the Son of *Ham*, *Noah*'s younger and accurſed Son. This Kingdom was ſet up about a hundred and thirty Years after the Flood, whilſt *Chuſh*, *Ham*, *Shem* and *Noah* were yet living: whereas if there were any thing of Truth in our Author's Propoſition, all Mankind muſt have continu'd under the Government of *Noah* whilſt he liv'd; and that Power muſt have bin tranſmitted to *Shem*, who liv'd about three hundred and ſeventy Years after the erection of *Nimrod*'s Kingdom; and muſt have come to *Japhet* if he was the Elder, but could never come to *Cham*, who is declar'd to have bin certainly the Younger, and condemn'd to be a Servant to them both; much leſs to the younger Son of his Son, whilſt he, and thoſe to whom he and his Poſterity were to be Subjects, were ſtill living.

This Rule therefore, which the Partizans of Abſolute Monarchy fancy to be univerſal and perpetual, falling out in its firſt beginning, directly contrary to what they aſſert; and being never known to have bin recover'd, were enough to ſilence them, if they had any thing of modeſty or regard to Truth. But the matter may be carried farther: For the Scripture not only teſtifys, that this Kingdom of *Nimrod* was an Uſurpation, void of all Right, proceeding from the moſt violent and miſchievous Vices, but exercis'd with the utmoſt fury, that the moſt wicked Man of the accurſed Race, who ſet himſelf up againſt God, and all that is good, could be capable of. The progreſs of this Kingdom was ſutable to its Inſtitution: that which was begun in wickedneſs, was carried on with madneſs, and produc'd Confuſion. The mighty Hunter, whom the beſt Interpreters call a *cruel Tyrant*, receding from the ſimplicity and innocence of the Patriarchs, who were Husbandmen or Shepherds, arrogating to himſelf a Dominion over *Shem*, to whom he and his Fathers were to be Servants, did thereby ſo peculiarly become the Heir of God's Curſe, that whatſoever has bin ſaid to this day, of the Power that did moſt directly ſet it ſelf againſt God and his People, has related literally to the *Babel* that he built, or figuratively to that which reſembles it in Pride, Cruelty, Injuſtice and Madneſs.

But the ſhameleſs rage of ſome of theſe Writers is ſuch, that they rather chuſe to aſcribe the beginning of their Idol to this odious Violence, than to own it from the conſent of a willing People; as if they thought, that as all Action muſt be ſutable to its Principle, ſo that which is unjuſt in its practice, ought to ſcorn to be deriv'd from that which is not deteſtable in its principle. 'Tis hardly worth our pains to examin whether the Nations, that went from *Babel* after the confuſion of Languages, were more or leſs than ſeventy two, for they ſeem not to have gone according to Familys, but every one to have aſſociated himſelf to thoſe that underſtood his Speech; and the chief of the Fathers, as *Noah* and his Sons, were not there, or were ſubject to *Nimrod*; each of which Points doth deſtroy, even in the Root, all pretence to Paternal Government. Beſides, 'tis evident in Scripture, that *Noah* liv'd three hundred and fifty Years after the Flood; *Shem* five hundred; *Abraham* was born about two hundred and ninety Years after the Flood, and liv'd one hundred ſeventy five Years: He was therefore born under the Government of *Noah*, and died under that of *Shem*: He could not therefore exerciſe a regal Power whilſt he liv'd, for that was in *Shem*: So that in leaving his Country, and ſetting up a Family for himſelf, that never acknowledg'd any Superior, and never pretending to reign over any other, he fully ſhew'd he

 thought

thought himſelf free, and to owe ſubjection to none: And being as far from arrogating to himſelf any Power upon the Title of Paternity, as from acknowledging it in any other, left every one to the ſame liberty. SECT. 8.

The punctual enumeration of the Years that the Fathers of the holy Seed lived, gives us ground of making a more than probable conjecture, that they of the collateral Lines were, in number of days, not unequal to them; and if that be true, *Ham* and *Chuſh* were alive when *Nimrod* ſet himſelf up to be King. He muſt therefore have uſurp'd this Power over his Father, Grandfather, and great Grandfather; or, which is more probable, he turn'd into Violence and Oppreſſion the Power given him by a Multitude; which, like a Flock without a Shepherd, not knowing whom to obey, ſet him up to be their Chief. I leave to our Author the liberty of chuſing which of theſe two dos beſt ſute with his Paternal Monarchy; but as far as I can underſtand, the firſt is directly againſt it, as well as againſt the Laws of God and Man; the other being from the conſent of the Multitude, cannot be extended farther than they would have it, nor turn'd to their prejudice, without the moſt abominable ingratitude and treachery, from whence no Right can be deriv'd, nor any juſtifiable Example taken.

Nevertheleſs, if our Author reſolve that *Abraham* was alſo a King, he muſt preſume that *Shem* did emancipate him, before he went to ſeek his Fortune. This was not a Kingly poſture; but I will not contradict him, if I may know over whom he reign'd. Paternal Monarchy is exercis'd by the Father of the Family over his Deſcendents, or ſuch as had bin under the Dominion of him whoſe Heir he is. But *Abraham* had neither of theſe: Thoſe of his neareſt Kindred continu'd in *Meſopotamia*, as appears by what is ſaid of *Bethuel* and *Laban*. He had only *Lot* with him, over whom he pretended no right: He had no Children till he was a hundred Years old, (that is to ſay, he was a King without a Subject) and then he had but one. I have heard that * *Sovereigns do impatiently bear Competitors*; but now I find Subjection alſo doth admit of none. *Abraham*'s Kingdom was too great when he had two Children; and to diſburden it, *Iſhmael* muſt be expel'd ſoon after the birth of *Iſaac*. He obſerv'd the ſame method after the death of *Sarah*: He had Children by *Keturah*; but he gave them Gifts and ſent 'em away, leaving *Iſaac* like a Stoical King reigning in and over himſelf, without any other Subject till the birth of *Jacob* and *Eſau*. But his Kingdom was not to be of a larger extent than that of his Father: The two Twins could not agree: *Jacob* was ſent away by his Mother; he reign'd over *Eſau* only, and 'tis not eaſy to determin who was the Heir of his worldly Kingdom; for tho *Jacob* had the birth-right, we do not find he had any other Goods than what he had gotten in *Laban*'s ſervice. If our Author ſay true, the right of Primogeniture, with the Dominion perpetually annex'd by the Laws of God and Nature, muſt go to the eldeſt: *Iſaac* therefore, tho he had not bin deceiv'd, could not have confer'd it upon the younger; for Man cannot overthrow what God and Nature have inſtituted. *Jacob*, in the Court-Language, had bin a double Rebel, in beguiling his Father, and ſupplanting his Brother: The bleſſing of being Lord over his Brethren, could not have taken place. Or if *Iſaac* had Power, and his Act was good, the Prerogative of the Elder is not rooted in the Law of God or Nature, but is a matter of conveniency only, which may be chang'd at the Will of the Father, whether he know what he dos or not. But if this Paternal Right to Dominion were of any value, or Dominion over Men

* Omniſque poteſtas impatiens conſortis erit. *Lucan.*

CHAP. I.

were a thing to be deſir'd; why did *Abraham*, *Iſaac*, and *Jacob*, content themſelves with ſuch a narrow Territory, when after the death of their Anceſtors, they ought, according to that rule, to have bin Lords of the World? All Authors conclude that *Shem* was the eldeſt by birth, or prefer'd by the appointment of God, ſo as the Right muſt have bin in him, and from him tranſmitted to *Abraham* and *Iſaac*: but if they were ſo poſſeſt with the contemplation of a Heavenly Kingdom, as not to care for the greateſt on Earth; 'tis ſtrange that *Eſau*, whoſe modeſty is not much commended, ſhould ſo far forget his Intereſt, as neither to lay claim to the Empire of the World, nor diſpute with his Brother the poſſeſſion of the Field and Cave bought by *Abraham*, but rather to fight for a dwelling on Mount *Seir*, that was neither poſſeſt by, nor promis'd to his Fathers. If he was fallen from his Right, *Jacob* might have claim'd it; but God was his Inheritance, and being aſſur'd of his Bleſſing, he contented himſelf with what he could gain by his Induſtry, in a way that was not at all ſutable to the Pomp and Majeſty of a King. Which way ſoever therefore the buſineſs be turn'd, whether, according to *Iſaac*'s Bleſſing, *Eſau* ſhould ſerve *Jacob*, or to our Author's opinion, *Jacob* muſt ſerve *Eſau*, neither of the two was effected in their Perſons: And the Kingdom of two being divided into two, each of them remain'd Lord of himſelf.

SECT. IX.

The Power of a Father belongs only to a Father.

THIS leads us to an eaſy determination of the Queſtion, which our Author thinks inſoluble; *If* Adam *was Lord of his Children, he dos not ſee how any can be free from the ſubjection of his Parents.* For as no good Man will ever deſire to be free from the reſpect that is due to his Father, who did beget and educate him, no wiſe Man will ever think the like to be due to his Brother or Nephew that did neither. If *Eſau* and *Jacob* were equally free; if *Noah*, as our Author affirms, divided *Europe*, *Aſia*, and *Africa*, amongſt his three Sons, tho he can't prove it; and if ſeventy two Nations under ſo many Heads or Kings went from *Babylon* to people the Earth, about a hundred and thirty years after the Flood, I know not why, according to the ſame rule and proportion, it may not be ſafely concluded, that in four thouſand years Kings are ſo multiplied, as to be in number equal to the Men that are in the World; that is to ſay, they are, according to the Laws of God and Nature, all free, and independent upon each other, as *Shem*, *Ham*, and *Japhet* were. And therefore, tho *Adam* and *Noah* had reign'd alone when there were no Men in the World except ſuch as iſſu'd from them, that is no reaſon why any other ſhould reign over thoſe that he has not begotten. As the Right of *Noah* was divided amongſt the Children he left, and when he was dead, no one of them depended on the other, becauſe no one of them was Father of the other; and the Right of a Father can only belong to him that is ſo, the like muſt for ever attend every other Father in the World. This paternal Power muſt neceſſarily accrue to every Father: He is a King by the ſame Right as the Sons of *Noah*; and how numerous ſoever Familys may be upon the increaſe of Mankind, they are all free, till they agree

to recede from their own Right, and join together in, or under one Go- SECT. 10.
vernment, according to ſuch Laws as beſt pleaſe themſelves.

SECT. X.

Such as enter into Society, muſt in ſome degree diminiſh their Liberty.

REASON leads them to this: No one Man or Family is able to provide that which is requiſite for their convenience or ſecurity, whilſt every one has an equal Right to every thing, and none acknowledges a Superior to determin the Controverſys, that upon ſuch occaſions muſt continually ariſe, and will probably be ſo many and great, that Mankind cannot bear them. Therefore tho I do not believe that *Bellarmin* ſaid, a Commonwealth could not exerciſe its Power; for he could not be ignorant, that *Rome* and *Athens* did exerciſe theirs, and that all the Regular Kingdoms in the World are Commonwealths: yet there is nothing of abſurdity in ſaying, That Man cannot continue in the perpetual and intire fruition of the Liberty that God has given him. The Liberty of one is thwarted by that of another; and whilſt they are all equal, none will yield to any, otherwiſe than by a general conſent. This is the ground of all juſt Governments; for Violence or Fraud can create no Right; and the ſame conſent gives the Form to them all, how much ſoever they differ from each other. Some ſmall numbers of Men, living within the Precincts of one City, have, as it were, caſt into a common Stock, the Right which they had of governing themſelves and Children; and by common Conſent joining in one body, exercis'd ſuch Power over every ſingle Perſon as ſeem'd beneficial to the whole: and this Men call perfect *Democracy*. Others choſe rather to be govern'd by a ſelect number of ſuch as moſt excell'd in Wiſdom and Vertue; and this, according to the ſignification of the word, was call'd *Ariſtocracy:* Or when one Man excell'd all others, the Government was put into his hands under the name of *Monarchy*. But the wiſeſt, beſt, and far the greateſt part of Mankind, rejecting theſe ſimple Species, did form Governments mix'd or compos'd of the three, as ſhall be prov'd hereafter, which commonly receiv'd their reſpective Denomination from the Part that prevail'd, and did deſerve praiſe or blame, as they were well or ill proportion'd.

It were a folly hereupon to ſay, that the Liberty for which we contend, is of no uſe to us, ſince we cannot endure the Solitude, Barbarity, Weakneſs, Want, Miſery and Dangers that accompany it whilſt we live alone, nor can enter into a Society without reſigning it; for the choice of that Society, and the liberty of framing it according to our own Wills, for our own good, is all we ſeek. This remains to us whilſt we form Governments, that we our ſelves are Judges how far 'tis good for us to recede from our natural Liberty; which is of ſo great importance, that from thence only we can know whether we are Freemen or Slaves: and the difference between the beſt Government and the worſt, dos wholly depend upon a right or wrong exerciſe of that Power. If Men are naturally free, ſuch as have Wiſdom and Underſtanding will always frame good Governments: But if they are born under the neceſſity of a perpetual Slavery, no Wiſdom can be of uſe to them; but all muſt for ever depend on the Will of their Lords, how cruel, mad, proud or wicked ſoever they be.

SECT. XI.

No Man comes to command many, unleſs by Conſent or by Force.

BUT becauſe I cannot believe God has created Man in ſuch a ſtate of Miſery and Slavery as I juſt now mention'd; by diſcovering the vanity of our Author's whimſical Patriarchical Kingdom, I am led to a certain concluſion, That every Father of a Family is free and exempt from the domination of any other, as the ſeventy two that went from *Babel* were. 'Tis hard to comprehend how one Man can come to be maſter of many, equal to himſelf in Right, unleſs it be by Conſent or by Force. If by Conſent, we are at an end of our Controverſys: Governments, and the Magiſtrats that execute them, are created by Man. They who give a being to them, cannot but have a right of regulating, limiting and directing them as beſt pleaſes themſelves; and all our Author's Aſſertions concerning the abſolute Power of one Man, fall to the ground: If by Force, we are to examin how it can be poſſible or juſtifiable. This ſubduing by Force we call Conqueſt; but as he that forces muſt be ſtronger than thoſe that are forc'd, to talk of one Man who in ſtrength exceeds many millions of Men, is to go beyond the extravagance of Fables and Romances. This Wound is not cur'd by ſaying, that he firſt conquers one, and then more, and with their help others: for as to matter of fact, the firſt news we hear of *Nimrod* is, that he reign'd over a great multitude, and built vaſt Citys; and we know of no Kingdom in the World, that did not begin with a greater number than any one Man could poſſibly ſubdue. If they who chuſe one to be their Head, did under his conduct ſubdue others, they were Fellow-conquerors with him; and nothing can be more brutiſh, than to think, that by their Vertue and Valour they had purchas'd perpetual Slavery to themſelves and their Poſterity. But if it were poſſible, it could not be juſtifiable; and whilſt our Diſpute is concerning Right, that which ought not to be is no more to be receiv'd, than if it could not be. No Right can come by conqueſt, unleſs there were a Right of making that Conqueſt, which, by reaſon of the Equality that our Author confeſſes to have bin amongſt the Heads of Familys, and as I have prov'd goes into Infinity, can never be on the Aggreſſor's ſide. No Man can juſtly impoſe any thing upon thoſe who owe him nothing. Our Author therefore, who *aſcribes the enlargement of* Nimrod's *Kingdom to Uſurpation and Tyranny*, might as well have acknowledg'd the ſame in the beginning, as he ſays all other Authors have done. However, he ought not to have imputed to Sir *Walter Raleigh* an Approbation of his Right, as Lord or King over his Family; for he could never think him to be a Lord by the right of a Father, who by that rule muſt have liv'd and died a Slave to his Fathers that overliv'd him. Whoſoever therefore like *Nimrod* grounds his pretenſions of Right upon Uſurpation and Tyranny, declares himſelf to be, like *Nimrod*, a Uſurper and a Tyrant, that is, an Enemy to God and Man, and to have no Right at all. That which was unjuſt in its beginning, can of it ſelf never change its nature. *Tempus in ſe*, ſaith *Grotius*, *nullam habet vim effectricem.* He that perſiſts in doing Injuſtice, aggravates it, and takes upon himſelf all the guilt of his Predeceſſors. But if there be a King in the World, that claims a Right by Con-

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queſt, and would juſtify it, he might do well to tell whom he conquer'd, when, with what aſſiſtance, and upon what reaſon he undertook the War: for he can ground no title upon the obſcurity of an unſearchable antiquity; and if he dos it not, he ought to be look'd upon as a uſurping *Nimrod*. SECT. 12.

SECT. XII.

The pretended Paternal Right is diviſible or indiviſible: if diviſible, 'tis extinguiſh'd; if indiviſible, univerſal.

THis paternal right to Regality, if there be any thing in it, is diviſible or indiviſible; if indiviſible, as *Adam* has but one Heir, one Man is rightly Lord of the whole World, and neither *Nimrod* nor any of his Succeſſors could ever have bin Kings, nor the ſeventy two that went from *Babylon*: *Noah* ſurviv'd him near two hundred years: *Shem* continu'd one hundred and fifty years longer. The Dominion muſt have bin in him, and by him tranſmitted to his Poſterity for ever. Thoſe that call themſelves Kings in all other Nations, ſet themſelves up againſt the Law of God and Nature: This is the Man we are to ſeek out, that we may yield obedience to him. I know not where to find him; but he muſt be of the race of *Abraham*. *Shem* was prefer'd before his Brethren: The Inheritance that could not be divided muſt come to him, and from him to *Iſaac*, who was the firſt of his Deſcendents that outliv'd him. 'Tis pity that *Jacob* did not know this, and that the Lord of all the Earth, thro ignorance of his Title, ſhould be forc'd to keep one of his Subjects Sheep for wages; and ſtrange, that he who had wit enough to ſupplant his Brother, did ſo little underſtand his own bargain, as not to know that he had bought the perpetual Empire of the World. If in conſcience he could not take ſuch a price for a diſh of Pottage, it muſt remain in *Eſau*: However our Lord Paramount muſt come from *Iſaac*. If the Deed of Sale made by *Eſau* be good, we muſt ſeek him amongſt the *Jews*; if he could not ſo eaſily deveſt himſelf of his Right, it muſt remain amongſt his Deſcendents, who are *Turks*. We need not ſcruple the reception of either, ſince the late *Scots* Act tells us, *That Kings derive their Royal Power from God alone; and no difference of Religion*, &c. *can divert the right of Succeſſion*. But I know not what we ſhall do, if we cannot find this Man; for *de non apparentibus & non exiſtentibus eadem eſt ratio*. The Right muſt fall if there be none to inherit: If we do not know who he is that has the Right, we do not know who is near to him: All Mankind muſt inherit the Right, to which every one has an equal title; and that which is Dominion, if in one, when 'tis equally divided among all Men, is that univerſal Liberty which I aſſert. Wherefore I leave it to the choice of ſuch as have inherited our Author's opinions, to produce this *Jew* or *Turk* that ought to be Lord of the whole Earth, or to prove a better title in ſome other Perſon, and to perſuade all the Princes and Nations of the World to ſubmit: If this be not done, it muſt be confeſt this Paternal Right is a mere whimſical Fiction, and that no Man by birth has a Right above another, or can have any, unleſs by the conceſſion of thoſe who are concern'd.

If this Right to an univerſal Empire be diviſible, and *Noah* did actually divide it among his three Sons: if ſeventy and two abſolute Monarchs did

CHAP. I. did at once ariſe out of the Multitude that had aſſembl'd at *Babel*; *Noah*, nor his Sons, nor any of the holy Seed, nor probably any elder than *Nimrod* having bin there; many other Monarchs muſt neceſſarily have ariſen from them alſo. *Abraham*, as our Author ſays, was a King: *Lot* muſt have bin ſo alſo; for they were equals: his Sons *Ammon* and *Moab* had no dependence upon the Deſcendents of *Abraham*: *Iſmael* and *Eſau* ſet up for themſelves, and great Nations came of them: *Abraham*'s Sons by *Keturah* did ſo alſo; that is to ſay, every one as ſoon as he came to be of age to provide for himſelf, did ſo, without retaining any dependence upon the Stock from whence he came: Thoſe of that Stock, or the Head of it, pretended to no Right over thoſe who went from them. Nay, nearneſs in Blood was ſo little regarded, that tho *Lot* was *Abraham*'s Brother's Son, *Eliezer* his Servant had bin his Heir, if he had died childleſs. The like continu'd among *Jacob*'s Sons; no Juriſdiction was given to one above the reſt: an equal diviſion of Land was made amongſt 'em: Their Judges and Magiſtrats were of ſeveral Tribes and Familys, without any other preference of one before another, than what did ariſe from the advantages God had given to any particular Perſon. This I take to be a proof of the utmoſt extent and certainty, that the Equality amongſt Mankind was then perfect: He therefore that will deny it to be ſo now, ought to prove that neither the Prophets, Patriarchs, or any other Men did ever underſtand or regard the Law deliver'd by God and Nature to Mankind; or that having bin common and free at the firſt, and ſo continu'd for many hundreds of years after the Flood, it was afterwards aboliſh'd, and a new one introduc'd. He that aſſerts this muſt prove it; but till it dos appear to us, when, where, how, and by whom this was done, we may ſafely believe there is no ſuch thing; and that no Man is or can be a Lord amongſt us, till we make him ſo; and that by nature we are all Brethren.

Our Author, by endeavouring farther to illuſtrate the Patriarchical Power, deſtroys it, and cannot deny to any Man the Right which he acknowledges to have bin in *Iſmael* and *Eſau*. But if every Man has a Right of ſetting up for himſelf with his Family, or before he has any, he cannot but have a right of joining with others if he pleaſes; as his joining or not joining with others, and the choice of thoſe others depends upon his own will, he cannot but have a right of judging upon what conditions 'tis good for him to enter into ſuch a Society, as muſt neceſſarily hinder him from exerciſing the Right which he has originally in himſelf. But as it cannot be imagin'd that Men ſhould generally put ſuch Fetters upon themſelves, unleſs it were in expectation of a greater good thereby to accrue to them, no more can be requir'd to prove that they do voluntarily enter into theſe Societys, inſtitute them for their own good, and preſcribe ſuch Rules and Forms to them as beſt pleaſe themſelves, without giving account to any. But if every Man be free, till he enter into ſuch a Society as he chuſes for his own good, and thoſe Societys may regulate themſelves as they think fit; no more can be requir'd to prove the natural Equality in which all Men are born, and continue, till they reſign it as into a common ſtock, in ſuch meaſure as they think fit for the conſtituting of Societys for their own good, which I aſſert, and our Author denies.

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SECT. XIII.

There was no ſhadow of a Paternal Kingdom amongſt the Hebrews, nor precept for it.

OUR Author is ſo modeſt to confeſs, that *Jacob*'s Kingdom, conſiſting of ſeventy two Perſons, was ſwallow'd up by the power of the greater Monarch *Pharaoh*: But if this was an Act of Tyranny, 'tis ſtrange that the ſacred and eternal Right, grounded upon the immutable Laws of God and Nature, ſhould not be reſtor'd to God's choſen People, when he deliver'd them from that Tyranny. Why was not *Jacob*'s Monarchy confer'd upon his right Heir? How came the People to neglect a Point of ſuch importance? Or if they did forget it, why did not *Moſes* put 'em in mind of it? Why did not *Jacob* declare to whom it did belong? Or if he is underſtood to have declar'd it, in ſaying the Scepter ſhould not depart from *Judah*, why was it not deliver'd into his hands, or into his Heirs? If he was hard to be found in a People of one kindred, but four degrees remov'd from *Jacob* their Head, who were exact in obſerving Genealogys; how can we hope to find him after ſo many thouſand years, when we do not ſo much as know from whom we are deriv'd? Or rather how comes that Right, which is eternal and univerſal, to have bin nip'd in the bud, and ſo aboliſh'd before it could take any effect in the World, as never to have bin heard of amongſt the *Gentiles*, nor the People of God, either before or after the Captivity, from the death of *Jacob* to this day? This I aſſert, and I give up the Cauſe if I do not prove it. To this end I begin with *Moſes* and *Aaron* the firſt Rulers of the People, who were neither of the eldeſt Tribe according to birth, nor the diſpoſition of *Jacob*, if he did, or could give it to any; nor were they of the eldeſt Line of their own Tribe: and even between them the Superiority was given to *Moſes*, who was the younger; as 'tis ſaid, *I have made thee a God to* Pharaoh, *and* Aaron *thy Brother ſhall be thy Prophet*. If *Moſes* was a King, as our Author ſays, but I deny, and ſhall hereafter prove, the matter is worſe: He muſt have bin an Uſurper of a moſt unjuſt Dominion over his Brethren; and this Patriarchical power, which by the Law of God was to be perpetually fix'd in his Deſcendents, periſh'd with him, and his Sons continu'd in an obſcure rank amongſt the Levites. *Joſhua* of the Tribe of *Ephraim* ſucceeded him; *Othniel* was of *Judah*, *Ehud* of *Benjamin*, *Barak* of *Napthalim*, and *Gideon* of *Manaſſeh*. The other Judges were of ſeveral Tribes; and they being dead, their Children lay hid among the common People, and we hear no more of 'em. The firſt King was taken out of the leaſt Family of the leaſt and youngeſt Tribe. The ſecond, whilſt the Children of the firſt King were yet alive, was the youngeſt of eight Sons of an obſcure Man in the Tribe of *Judah*: *Solomon* one of his youngeſt Sons ſucceeded him: Ten Tribes deſerted *Rehoboam*, and by the command of God ſet up *Jeroboam* to be their King. The Kingdom of *Iſrael* by the deſtruction of one Family paſs'd into another: That of *Judah* by God's peculiar promiſe continu'd in *David*'s race till the Captivity; but we know not that the eldeſt Son was always prefer'd, and have no reaſon to preſume it. *David* their moſt reverenced King left no precept for it, and gave an example to the contrary: he did not ſet up the Eldeſt,

but

CHAP. I.

but the Wiſeſt. After the Captivity, they who had moſt wiſdom or valour to defend the People, were thought moſt fit to command; and the Kingdom at the laſt came to the *Aſmonean* Race, whilſt the Poſterity of *David* was buried in the maſs of the common People, and utterly depriv'd of all worldly Rule or Glory. If the Judges had not a Regal Power, or the Regal were only juſt, as inſtituted by God, and eternally annex'd to Paternity, all that they did was evil: There could be nothing of Juſtice in the Powers exercis'd by *Moſes*, *Joſhua*, *Gideon*, *Samuel*, and the reſt of the Judges. If the Power was regal and juſt, it muſt have continu'd in the Deſcendents of the firſt: *Saul*, *David*, and *Solomon* could never have bin Kings: The Right failing in them, their Deſcendents could inherit none from them; and the others after the Captivity were guilty of the like injuſtice.

Now as the Rule is not general, to which there is any one juſt exception, there is not one of theſe Examples that would not overthrow our Author's Doctrin: If one deviation from it were lawful, another might be, and ſo to infinity. But the utmoſt degree of impudent madneſs to which perhaps any Man in the world has ever arriv'd, is to aſſert that to be univerſal and perpetual, which cannot be verify'd by any one Example to have bin in any place of the World, nor juſtify'd by any Precept.

If it be objected, That all theſe things were done by God's immediat diſpoſition: I anſwer, that it were an impious madneſs to believe that God did perpetually ſend his Prophets to overthrow what he had ordain'd from the beginning, and as it were in ſpite to bring the minds of Men into inextricable confuſion and darkneſs; and by particular Commands to overthrow his univerſal and eternal Law. But to render this point more clear, I deſire it may be conſider'd, That we have but three ways of diſtinguiſhing between good and evil.

1. When God by his Word reveals it to us.

2. When by his Deeds he declares it; becauſe that which he dos is good, as that which he ſays is true.

3. By the Light of Reaſon, which is good, in as much as it is from God.

And firſt; It cannot be ſaid we have an explicit word for that continuance of the Power in the eldeſt; for it appears not, and having none, we might conclude it to be left to our liberty: For it agrees not with the goodneſs of God to leave us in a perpetual ignorance of his Will in a matter of ſo great importance, nor to have ſuffer'd his own People, or any other, to perſiſt, without the leaſt reproof or admonition, in a perpetual oppoſition to it, if it had diſpleas'd him.

To the 2*d*. The Diſpenſations of his Providence, which are the emanations of his Will, have gone contrary to this pretended Law: There can therefore be no ſuch thing; for God is conſtant to himſelf: his Works do not contradict his Word, and both of them do equally declare to us that which is good.

Thirdly; If there be any Precept that by the light of Nature we can in matters of this kind look upon as certain, 'tis that the Government of a People ſhould be given to him that can beſt perform the Dutys of it: No Man has it for himſelf, or from himſelf; but for and from thoſe who before he had it were his Equals, that he may do good to them. If there were a Man, who in Wiſdom, Valour, Juſtice and Purity, ſurpaſs'd all others, he might be call'd a King by Nature, becauſe he is beſt able to bear the weight of ſo great a charge; and like a good Shepherd to lead the People to good. *Detur digniori* is the voice of Reaſon; and that we may

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be ſure *Detur ſeniori* is not ſo, *Solomon* tells us, *That a wiſe Child is better than an old and fooliſh King.* But if this pretended Right do not belong to him that is truly the eldeſt, nothing can be more abſurd than a fantaſtical pretence to a Right deduc'd from him that is not ſo. Now leſt I ſhould be thought to follow my own Inventions, and call them Reaſon, or the Light of God in us, I deſire it may be obſerv'd that God himſelf has ever taken this method. When he rais'd up *Moſes* to be the leader of his People, he endow'd him with the moſt admirable gifts of his Spirit that ever he beſtow'd upon a Man: When he choſe ſeventy Men to aſſiſt him, he endow'd them with the ſame ſpirit. *Joſhua* had no other title to ſucceed him than the like evidence of God's Preſence with him. When the People thro ſin fell into miſery, he did not ſeek out their Deſcendents, nor ſuch as boaſted in a prerogative of Birth; but ſhew'd whom he deſign'd for their Deliverer, by beſtowing ſuch gifts upon him as were requir'd for the performance of his work; and never fail'd of doing this, till that miſerable ſinful People rejecting God and his Government, deſir'd that which was in uſe among their accurſed Neighbours, that they might be as like to them in the moſt ſhameful Slavery to Man, as in the Worſhip of Idols ſet up againſt God. SECT. 14.

But if this pretended Right be grounded upon no word or work of God, nor the reaſon of Man, 'tis to be accounted a mere figment, that has nothing of truth in it.

SECT. XIV.

If the paternal Right had included Dominion, and was to be transfer'd to a ſingle Heir, it muſt periſh if he were not known; and could be applied to no other Perſon.

HAving ſhew'd that the firſt Kings were not Fathers, nor the firſt Fathers Kings; that all the Kings of the *Jews* and *Gentiles* mention'd in Scripture came in upon Titles different from, and inconſiſtent with that of Paternity; and that we are not led by the Word nor the Works of God, nor the Reaſon of Man, or Light of Nature, to believe there is any ſuch thing; we may ſafely conclude there never was any ſuch thing, or that it never had any effect, which to us is the ſame. 'Tis as ridiculous to think of retrieving that, which from the beginning of the World was loſt, as to create that which never was. But I may go farther, and affirm, that tho there had bin ſuch a Right in the firſt Fathers of Mankind exercis'd by them, and for ſome ages individually tranſmitted to their eldeſt Sons, it muſt neceſſarily periſh, ſince the Generations of Men are ſo confus'd, that no Man knows his own original, and conſequently this Heir is no where to be found; for 'tis a folly for a Man to pretend to an Inheritance, who cannot prove himſelf to be the right Heir. If this be not true, I deſire to know from which of *Noah*'s Sons the Kings of *England*, *France*, or *Spain* do deduce their original; or what reaſon they can give why the title to Dominion, which is fancied to be in *Noah*, did rather belong to the firſt of their reſpective Races, that attain'd to the Crowns they now enjoy, than to the meaneſt Peaſant of their Kingdoms; or how that can be tranſmitted to them, which was not in the firſt. We know that no Man can give what he has not; that if there be no giver,

CHAP. I.

there is no gift; if there be no root, there can be no branch; and that the firſt point failing, all that ſhould be deriv'd from it muſt neceſſarily fail.

Our Author, who is good at reſolving difficultys, ſhews us an eaſy way out of this ſtrait. *'Tis true*, ſays he, *all Kings are not natural Parents of their Subjects; yet they either are, or are to be reputed the next Heirs to thoſe firſt Progenitors, who were at firſt the natural Parents of the whole People, and in their right ſucceed to the exerciſe of the ſupreme Juriſdiction: and ſuch Heirs are not only Lords of their own Children, but alſo of their Brethren, and all thoſe that were ſubject to their Father*, &c. *By this means it comes to paſs, that many a Child ſucceeding a King, hath the right of a Father over many a grey-headed multitude, and hath the title of* Pater Patriæ.

An Aſſertion comprehending ſo many Points, upon which the moſt important Rights of all Mankind do depend, might deſerve ſome proof: But he being of opinion we ought to take it upon his credit, dos not vouchſafe to give us ſo much as the ſhadow of any. Nevertheleſs being unwilling either crudely to receive, or raſhly to reject it, I ſhall take the liberty of examining the Propoſition, and hope I may be pardon'd, if I dwell a little more than ordinarily upon that which is the foundation of his Work.

We are beholden to him for confeſſing modeſtly that all Kings are not the natural Fathers of their People, and ſparing us the pains of proving, that the Kings of *Perſia*, who reign'd from the *Indies* to the *Helleſpont*, did not beget all the Men that liv'd in thoſe Countrys; or that the Kings of *France* and *Spain*, who began to reign before they were five years old, were not the natural Fathers of the Nations under them. But if all Kings are not Fathers, none are, as they are Kings: If any one is, or ever was, the Rights of Paternity belong to him, and to no other who is not ſo alſo. This muſt be made evident; for matters of ſuch importance require proof, and ought not to be taken upon ſuppoſition. If *Filmer* therefore will pretend that the right of Father belongs to any one King, he muſt prove that he is the Father of his People; for otherwiſe it dos not appertain to him: he is not the Man we ſeek.

'Tis no leſs abſurd to ſay he is to be reputed Heir to the firſt Progenitor: for it muſt be firſt prov'd, that the Nation did deſcend from one ſingle Progenitor without mixture of other races: That this Progenitor was the Man, to whom *Noah* (according to *Filmer*'s whimſical diviſion of *Aſia*, *Europe*, and *Africa* among his Sons) did give the Land now inhabited by that People: That this Diviſion ſo made was not capable of Subdiviſions; and that this Man is by a true and uninterrupted Succeſſion deſcended from the firſt and eldeſt Line of that Progenitor: and all fails, if every one of theſe points be not made good. If there never was any ſuch Man who had that Right, it cannot be inherited from him. If by the ſame rule that a parcel of the World was allotted to him, that parcel might be ſubdivided amongſt his Children as they increas'd, the ſubdiviſions may be infinite, and the right of Dominion thereby deſtroy'd. If ſeveral Nations inhabit the ſame Land, they owe obedience to ſeveral Fathers: that which is due to their true Father, cannot be render'd to him that is not ſo; for he would by that means be depriv'd of the Right which is inſeparably annex'd to his Perſon: And laſtly, whatſoever the Right of an Heir may be, it can belong only to him that is Heir.

Leſt any ſhould be ſeduc'd from theſe plain Truths by frivolous ſuggeſtions, 'tis good to conſider that the title of *Pater Patriæ*, with which our Author would cheat us, has no relation to the matters of Right, upon

which

which we diſpute. 'Tis a figurative ſpeech, that may have bin rightly enough applied to ſome excellent Princes on account of their care and love to their People, reſembling that of a Father to his Children; and can relate to none but thoſe who had it. No man that had common ſenſe, or valu'd truth, did ever call *Phalaris*, *Dionyſius*, *Nabis*, *Nero*, or *Caligula*, Fathers of their Countrys; but Monſters, that to the utmoſt of their power endeavour'd their deſtruction: which is enough to prove, that ſacred Name cannot be given to all, and in conſequence to none but ſuch, as by their Virtue, Piety, and good Government do deſerve it. SECT. 14.

Theſe matters will yet appear more evident, if it be conſider'd, that tho *Noah* had reign'd as a King; that *Zoroaſter*, as ſome ſuppoſe, was *Ham*, who reign'd over his Children, and that thereby ſome Right might perhaps be deriv'd to ſuch as ſucceeded them; yet this can have no influence upon ſuch as have not the like Original: and no man is to be preſum'd to have it, till it be prov'd, ſince we have prov'd that many had it not. If *Nimrod* ſet himſelf up againſt his Grandfather; and if *Ninus*, who was deſcended from him in the fifth Generation, ſlew him, they ill deſerv'd the name and rights of Fathers; and none, but thoſe who have renounc'd all Humanity, Virtue, and common Senſe, can give it to them, or their Succeſſors. If therefore *Noah* and *Shem* had not ſo much as the ſhadow of Regal Power, and the actions of *Nimrod*, *Ninus*, and others who were Kings in their times, ſhew they did not reign in the right of Fathers, but were ſet up in a direct oppoſition to it, the titles of the firſt Kings were not from Paternity, nor conſiſtent with it.

Our Author therefore, who ſhould have prov'd every point, dos neither prove any one, nor aſſert that which is agreeable to divine or human Story, as to matter of fact; and as little conformable to common ſenſe. It dos not only appear contrary to his general Propoſition, That all Governments have not begun with the Paternal Power; but we do not find that any ever did. They who according to his rules ſhould have bin Lords of the whole Earth, liv'd and died private men, whilſt the moſt wicked and boiſterous of their Children commanded the greateſt part of the then inhabited World, not excepting even thoſe Countrys where they ſpent and ended their days; and inſtead of entring upon the Government by the right of Fathers, or managing it as Fathers, they did by the moſt outrageous injuſtice uſurp a violent Domination over their Brethren and Fathers.

It may eaſily be imagin'd what the Right is that could be thus acquir'd, and tranſmitted to their Succeſſors. Nevertheleſs our Author ſays, *All Kings either are, or ought to be reputed next Heirs*, &c. But why reputed, if they are not? How could any of the accurſed race of *Ham* be reputed Father of *Noah* or *Shem*, to whom he was to be a Servant? How could *Nimrod* and *Ninus* be reputed Fathers of *Ham*, and of thoſe whom they ought to have obey'd? Can Reaſon oblige me to believe that which I know to be falſe? Can a Lie, that is hateful to God and good Men, not only be excus'd, but enjoin'd, when (as he will perhaps ſay) it is for the King's Service? Can I ſerve two Maſters, or, without the moſt unpardonable injuſtice, repute him to be my Father, who is not my Father; and pay the obedience due to him who did beget and educate me, to one from whom I never receiv'd any good? If this be ſo abſurd, that no man dares affirm it in the perſon of any, 'tis as prepoſterous in relation to his Heirs: For *Nimrod* the firſt King could be Heir to no man as King, and could tranſmit to no man a Right which he had not. If it was ridiculous

CHAP. I. and abominable to ſay that he was Father of *Chuſh*, *Ham*, *Shem* and *Noah*; 'tis as ridiculous to ſay, he had the Right of Father, if he was not their Father; or that his Succeſſors inherited it from him, if he never had it. If there be any way thro this, it muſt have accru'd to him by the extirpation of all his Elders, and their Races; ſo as he who will aſſert this pretended Right to have bin in the *Babylonian* Kings, muſt aſſert, that *Noah*, *Shem*, *Japhet*, *Ham*, *Chuſh*, and all *Nimrod*'s elder Brothers, with all their Deſcendents, were utterly extirpated before he began to reign, and all Mankind to be deſcended from him.

This muſt be, if *Nimrod*, as the Scripture ſays, was the firſt that became mighty in the Earth; unleſs men might be Kings, without having more Power than others: for *Chuſh*, *Ham* and *Noah* were his Elders and Progenitors in the direct Line, and all the Sons of *Shem* and *Japhet*, and their Deſcendents in the Collaterals, were to be prefer'd before him; and he could have no Right at all that was not directly contrary to thoſe Principles which, our Author ſays, are grounded upon the eternal and indiſpenſable Laws of God and Nature. The like may be ſaid of the ſeventy two Heads of Colonys, which (following, as I ſuppoſe, Sir *Walter Raleigh*) he ſays went out to people the Earth, and whom he calls Kings: for according to the ſame Rule, *Noah*, *Shem* and *Japhet*, with their Deſcendents, could not be of the number; ſo that neither *Nimrod*, nor the others that eſtabliſh'd the Kingdoms of the World, and from whence he thinks all the reſt to be deriv'd, could have any thing of Juſtice in them, unleſs it were from a Root altogether inconſiſtent with his Principles. They are therefore falſe, or the Eſtabliſhments beforemention'd could have no Right. If they had none, they cannot be reputed to have any; for no man can think that to be true, which he knows to be falſe: having none, they could tranſmit none to their Heirs and Succeſſors. And if we are to believe, that all the Kingdoms of the Earth are eſtabliſh'd upon this Paternal Right; it muſt be prov'd that all thoſe, who in birth ought to have bin prefer'd before *Nimrod*, and the ſeventy two, were extirpated; or that the firſt and true Heir of *Noah* did afterwards aboliſh all theſe unjuſt Uſurpations; and making himſelf Maſter of the whole, left it to his Heirs, in whom it continues to this day. When this is done, I will acknowledg the Foundation to be well laid, and admit of all that can be rightly built upon it; but if this fails, all fails: The poiſon of the Root continues in the Branches. If the right Heir be not in poſſeſſion, he is not the right who is in poſſeſſion: If the true Heir be known, he ought to be reſtor'd to his Right: If he be not known, the Right muſt periſh: For nothing can be ſaid to belong to any man, if no man knows to whom it belongs, and can have no more effect than if it were not. This concluſion will continue unmovable, tho the diviſion into ſeventy two Kingdoms were allow'd; which cannot be without deſtroying the Paternal Power, or ſubjecting it to be ſubdivided into as many parcels as there are men, which deſtroys Regality; for the ſame thing may be requir'd in every one of the diſtinct Kingdoms, and others deriv'd from them. Or we muſt know who was that true Heir of *Noah*, that recover'd all: How, when, and to whom he gave the ſeveral Portions; and that every one of them do continue in the poſſeſſion of thoſe, who by this prerogative of Birth are rais'd above the reſt of mankind: and if they are not, 'tis an impious folly to repute them ſo, to the prejudice of thoſe that are; and if they do not appear, to the prejudice of all mankind; who being equal, are thereby made ſubject to them. For as Truth is the Rule of Juſtice;

there

there can be none, when he is reputed ſuperior to all who is certainly inferior to SECT. 15.

[In this place two Pages are wanting in the Original Manuſcript.]

——degenerated from that Reaſon which diſtinguiſhes men from beaſts. Tho it may be fit to uſe ſome Ceremonys before a man be admitted to practiſe Phyſick, or ſet up a Trade, 'tis his own Skill that makes him a Doctor or an Artificer, and others do but declare it. An Aſs will not leave his ſtupidity, tho he be cover'd with Scarlet; and he that is by nature a Slave, will be ſo ſtill, tho a Crown be put upon his Head: and 'tis hard to imagin a more violent inverſion of the Laws of God and Nature, than to raiſe him to the Throne, whom Nature intended for the Chain; or to make them Slaves to Slaves, whom God has endow'd with the Virtues requir'd in Kings. Nothing can be more prepoſterous, than to impute to God the frantick Domination, which is often exercis'd by wicked, fooliſh and vile Perſons, over the wiſe, valiant, juſt and good; or to ſubject the beſt to the rage of the worſt. If there be any Family therefore in the world, that can by the Law of God and Nature, diſtinct from the Ordinance of Man, pretend to an hereditary Right of Dominion over any People, it muſt be one that never did, and never can produce any Perſon that is not free from all the Infirmitys and Vices that render him unable to exerciſe the Sovereign Power; and is endow'd with all the Virtues requir'd to that end; or at leaſt a Promiſe from God, verify'd by Experience, that the next in Blood ſhall ever be able and fit for that work. But ſince we do not know that any ſuch has yet appear'd in the World, we have no reaſon to believe that there is, or ever was any ſuch; and conſequently none upon whom God has confer'd the Rights that cannot be exercis'd without them.

If there was no ſhadow of a Paternal Right in the Inſtitution of the Kingdoms of *Saul* and *David*, there could be none in thoſe that ſucceeded. *Rehoboam* could have no other than from *Solomon*: When he reign'd over two Tribes, and *Jeroboam* over ten, 'tis not poſſible that both of 'em could be the next Heir of their laſt common Father *Jacob*; and 'tis abſurd to ſay, that ought to be reputed which is impoſſible: for our thoughts are ever to be guided by Truth, or ſuch an appearance of it, as dos perſuade or convince us.

The ſame Title of Father is yet more ridiculouſly or odiouſly apply'd to the ſucceeding Kings. *Baaſha* had no other Title to the Crown, than by killing *Nadab* the Son of *Jeroboam*, and deſtroying his Family. *Zimri* purchas'd the ſame honour by the ſlaughter of *Elah* when he was drunk, and dealing with the Houſe of *Baaſha*, as he had done with that of *Jeroboam*. *Zimri* burning himſelf, transfer'd the ſame to *Omri*, as a reward for bringing him to that extremity. As *Jehu* was more fierce than theſe, he ſeems to have gain'd a more excellent recompence than any ſince *Jeroboam*, even a conditional Promiſe of a perpetual Kingdom; but falling from theſe glorious Privileges, purchas'd by his Zeal in killing two wicked Kings, and above one hundred of their Brethren, *Shallum* muſt have inherited them, by deſtroying *Zachary* and all that remain'd of his Race. This in plain Engliſh is no leſs than to ſay, that whoſoever kills a King, and invades a Crown, tho the act and means of accompliſhing it be never ſo deteſtable, dos thereby become Father of his Country, and Heir of all the Divine Privileges annex'd to that glorious Inheritance. And tho

CHAP. I. I cannot tell whether ſuch a Doctrin be more ſottiſh, monſtrous or impious, I dare affirm, that if it were receiv'd, no King in the World could think himſelf ſafe in his Throne for one day: They are already encompaſt with many dangers; but leſt Pride, Avarice, Ambition, Luſt, Rage, and all the Vices that uſually reign in the hearts of worldly men, ſhould not be ſufficient to invite 'em perpetually to diſturb Mankind, thro the deſire of gaining the Power, Riches and Splendor that accompany a Crown, our Author propoſes to 'em the moſt ſacred Privileges, as a reward of the moſt execrable Crimes. He that was ſtir'd up only by the violence of his own Nature, thought that a Kingdom could never be bought at too dear a rate;

———— Pro Regno velim
Patriam, Penates, conjugem flammis dare:
Imperia precio quolibet conſtant bene. Senec. Theb.

But if the ſacred Character of God's Anointed or Vicegerent, and Father of a Country, were added to the other Advantages that follow the higheſt Fortunes; the moſt modeſt and juſt men would be fill'd with fury, that they might attain to them. Nay, it may be, even the beſt would be the moſt forward in conſpiring againſt ſuch as reign: they who could not be tempted with external Pleaſures, would be moſt in love with divine Privileges; and ſince they ſhould become the ſacred Miniſters of God, if they ſucceeded, and Traitors or Rogues only if they miſcarried, their only care would be ſo to lay their Deſigns, that they might be ſurely executed. This is a Doctrin worthy of *Filmer*'s Invention, and *Heylin*'s Approbation; which being well weigh'd, will ſhew to all good and juſt Kings how far they are oblig'd to thoſe, who under pretence of advancing their Authority, fill the minds of men with ſuch Notions as are ſo deſperatly pernicious to them.

SECT. XVI.

The Antients choſe thoſe to be Kings, who excell'd in the Virtues that are moſt beneficial to Civil Societys.

IF the *Iſraelites*, whoſe Lawgiver was God, had no King in the firſt Inſtitution of their Government, 'tis no wonder that other Nations ſhould not think themſelves oblig'd to ſet up any: if they who came all of one ſtock, and knew their Genealogys, when they did inſtitute Kings, had no regard to our Author's Chimerical right of Inheritance, nor were taught by God or his Prophets to have any; 'tis not ſtrange that Nations, who did not know their own Original, and who probably, if not certainly, came of ſeveral Stocks, never put themſelves to the trouble of ſeeking one, who by his birth deſerv'd to be prefer'd before others: and various Changes happening in all Kingdoms (whereby in proceſs of time the Crowns were tranſported into divers Familys, to which the Right of Inheritance could not without the utmoſt impiety and madneſs be imputed) ſuch a fancy certainly could only enter into the heads of Fools; and we know of none ſo fooliſh to have harbour'd it.

The *Grecians*, amongſt others who follow'd the Light of Reaſon, knew no other original Title to the Government of a Nation, than that Wiſdom,

dom, Valour and Juſtice, which was beneficial to the People. Theſe Qualitys gave beginning to thoſe Governments, which we call *Heroum Regna*; and the Veneration paid to ſuch as enjoy'd them, proceeded from a grateful ſenſe of the Good receiv'd from them: They were thought to be deſcended from the Gods, who in Vertue and Beneficence ſurpaſs'd other men: The ſame attended their Deſcendents, till they came to abuſe their Power, and by their Vices ſhew'd themſelves like to, or worſe than others. Thoſe Nations did not ſeek the moſt antient, but the moſt worthy; and thought ſuch only worthy to be prefer'd before others, who could beſt perform their Duty. The *Spartans* knew that *Hercules* and *Achilles* were not their Fathers, for they were a Nation before either of them were born; but thinking their Children might be like to them in Valour, they brought them from *Thebes* and *Epirus* to be their Kings. If our Author is of another opinion, I deſire to know, whether the *Heraclidæ*, or the *Æacidæ* were, or ought to be reputed Fathers of the *Lacedemonians*; for if the one was, the other was not. SECT. 16.

The ſame method was follow'd in *Italy*; and they who eſteem'd themſelves * *Aborigines*, could not ſet up one to govern them under the Title of *Parent*. They could pay no veneration to any Man under the name of a common Father, who thought they had none; and they who eſteem'd themſelves equal, could have no reaſon to prefer any one, unleſs he were diſtinguiſh'd from others by the Vertues that were beneficial to all. This may be illuſtrated by matters of fact. *Romulus* and *Remus*, the Sons of a Nun, conſtuprated, as is probable, by a luſty Soldier, who was ſaid to be *Mars*, for their Vigour and Valour were made heads of a gather'd People. We know not that ever they had any Children; but we are ſure they could not be Fathers of the People that flock'd to them from ſeveral places, nor in any manner be reputed Heirs of him or them that were ſo: for they never knew who was their own Father; and when their Mother came to be diſcover'd, they ought to have bin Subjects to *Amulius* or *Numitor*. They could not be his Heirs whilſt he liv'd, and were not when he died: The Government of the *Latins* continu'd at *Alba*; and *Romulus* reign'd over thoſe who join'd with him in building *Rome*. The Power not coming to him by Inheritance, muſt have bin gain'd by Force, or confer'd upon him by Conſent: It could not be acquir'd by Force; for one Man could not force a multitude of fierce and valiant men, as they appear to have bin. It muſt therefore have bin by Conſent: And when he aim'd at more Authority than they were willing to allow, they ſlew him. He being dead, they fetch'd *Numa* from among the *Sabines*: He was not their Father, nor Heir to their Father, but a Stranger; not a Conqueror, but an unarm'd Philoſopher. *Tullus Hoſtilius* had no other Title: *Ancus Martius* was no way related to ſuch as had reign'd. The firſt *Tarquin* was the Son of a baniſh'd *Corinthian*. *Servius Tullus* came to *Rome* in the belly of his captive Mother, and could inherit nothing but Chains from his vanquiſh'd Father. *Tarquin* the Proud murder'd him, and firſt took upon himſelf the Title of King, *ſine juſſu Populi*. If this Murder and Uſurpation be call'd a Conqueſt, and thought to create a Right, the effect will be but ſmall: The Conqueror was ſoon conquer'd, baniſh'd, and his Sons ſlain, after which we hear no more of him or his Deſcendents. Whatſoever he gain'd from *Servius*, or the People, was T. Liv.

* ——— *Qui rupto robore nati*
Compoſitive Luto, nullos habuere parentes. Juven. Sat. 6.

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CHAP. I. ſoon loſt, and did accrue to thoſe that conquer'd and ejected him; and they might retain what was their own, or confer it upon one or more, in ſuch manner and meaſure as beſt pleas'd themſelves. If the Regal Power, which our Author ſays was in the Conſuls, could be divided into two parts, limited to a Year, and ſuffer ſuch reſtrictions as the People pleas'd to lay upon it, they might have divided it into as many parcels, and put it into ſuch form, as beſt ſuted with their Inclinations; and the ſeveral Magiſtracys which they did create for the exerciſe of the Kingly, and all other Powers, ſhews they were to give account to none but themſelves.

The *Iſraelites*, *Spartans*, *Romans* and others, who thus fram'd their Governments according to their own Will, did it not by any peculiar Priviledg, but by a univerſal Right confer'd upon them by God and Nature: They were made of no better Clay than others: They had no Right, that dos not as well belong to other Nations; that is to ſay, The Conſtitution of every Government is refer'd to thoſe who are concern'd in it, and no other has any thing to do with it.

Yet if it be aſſerted, that the Goverment of *Rome* was Paternal, or they had none at all; I deſire to know, how they came to have ſix Fathers of ſeveral Familys, whilſt they liv'd under Kings; and two or more new ones every Year afterwards: Or how they came to be ſo excellent in Vertue and Fortune, as to conquer the beſt part of the World, if they had no Government. *Hobbs* indeed dos ſcurrilouſly deride *Cicero*, *Plato* and *Ariſtotle*, *Cæteroſq*; *Romanæ & Græcæ Anarchiæ fautores*. But 'tis ſtrange that this Anarchy, which he reſembles to a Chaos, full of darkneſs and confuſion, that can have no Strength or regular Action, ſhould overthrow all the Monarchys that came within their reach, *If* (as our Authors ſays) *the beſt order, greateſt ſtrength, and moſt ſtability be in them.* It muſt therefore be confeſt, that theſe Governments are, in their various Forms, rightly inſtituted by ſeveral Nations, without any regard to Inheritance; or that theſe Nations have had no Governments, and were more ſtrong, vertuous and happy without Government, than under it, which is moſt abſurd.

But if Governments ariſe from the Conſent of Men, and are inſtituted by Men according to their own Inclinations, they do therein ſeek their own Good; for the Will is ever drawn by ſome real Good, or the appearance of it. This is that which man ſeeks by all the regular or irregular motions of his mind: Reaſon and Paſſion, Vertue and Vice do herein concur, tho they differ vaſtly in the Objects, in which each of 'em thinks this Good to conſiſt. A People therefore that ſets up Kings, Dictators, Conſuls, Pretors or Emperors, dos it not, that they may be great, glorious, rich or happy, but that it may be well with themſelves and their Poſterity. This is not accompliſh'd ſimply by ſetting one, a few, or more men in the adminiſtration of Powers, but by placing the Authority in thoſe who may rightly perform their Office. This is not every man's Work: Valour, Integrity, Wiſdom, Induſtry, Experience and Skill, are requir'd for the management of thoſe Military and Civil Affairs that neceſſarily fall under the care of the chief Magiſtrats. He or they therefore may reaſonably be advanc'd above their Equals, who are moſt fit to perform the Dutys belonging to their Stations, in order to the publick Good, for which they were inſtituted.

Marius, *Sylla*, *Catiline*, *Julius* or *Octavius Cæſar*, and all thoſe who by force or fraud uſurp'd a Dominion over their Brethren, could have no Title to this Right; much leſs could they become Fathers of the People,

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by uſing all the moſt wicked means that could well be imagin'd to deſtroy them; and not being regularly choſen for their Vertues, or the opinion of them, nor prefer'd on account of any Prerogative that had bin from the beginning annex'd to their Familys, they could have no other Right than Occupation could confer upon them. If this can confer a Right, there is an end of all Diſputes concerning the Laws of God or Man. If *Julius* and *Octavius Cæſar* did ſucceſſively become Lords and Fathers of their Country, by ſlaughtering almoſt all the Senat, and ſuch Perſons as were eminent for Nobility or Vertue, together with the greater part of the People, it cannot be denied, that a Thief, who breaks into his Neighbour's Houſe, and kills him, is juſtly Maſter of his Eſtate; and may exact the ſame obedience from his Children, that they render'd to their Father. If this Right could be transfer'd to *Tiberius*, either thro the malice of *Octavius*, or the fraud of his Wife; a wet Blanket laid over his face, and a few corrupted Soldiers could inveſt *Caligula* with the ſame. A vile Raſcal pulling *Claudius* out by the heels from behind the Hangings where he had hid himſelf, could give it to him. A diſh of Muſhrooms well ſeaſon'd by the infamous Strumpet his Wife, and a Potion prepar'd for *Britannicus* by *Locuſta*, could transfer it to her Son, who was a ſtranger to his Blood. *Galba* became Heir to it, by driving *Nero* to deſpair and death. Two common Soldiers by exciting his Guards to kill him, could give a juſt Tittle to the Empire of the World to *Otho*, who was thought to be the worſt man in it. If a Company of Villains in the *German* Army, thinking it as fit for them as others to create a Father of Mankind, could confer the Dignity upon *Vitellius*; and if *Veſpaſian*, cauſing him to be kill'd, and thrown into a Jakes leſs impure than his Life, did inherit all the glorious and ſacred Privileges belonging to that Title, 'tis in vain to inquire after any man's right to any thing. SECT. 16.

But if there be ſuch a thing as Right or Wrong to be examin'd by men, and any Rules ſet, whereby the one may be diſtinguiſh'd from the other; theſe Extravagancys can have no effect of Right. Such as commit 'em, are not to be look'd upon as Fathers, but as the moſt mortal Enemys of their reſpective Countrys. No Right is to be acknowledg'd in any, but ſuch as is confer'd upon them by thoſe who have the right of conferring, and are concern'd in the exerciſe of the Power, upon ſuch conditions as beſt pleaſe themſelves. No Obedience can be due to him or them, who have not a right of commanding; which cannot reaſonably be confer'd upon any, that are not eſteem'd willing and able rightly to execute it. This ability to perform the higheſt Works that come within the reach of Men; and integrity of Will not to be diverted from it by any temptation, or conſideration of privat Advantages, comprehending all that is moſt commendable in Man; we may eaſily ſee, that whenſoever men act according to the Law of their own Nature, which is Reaſon, they can have no other rule to direct them in advancing one above another, than the opinion of a man's Vertue and Ability, beſt to perform the Duty incumbent upon him; that is, by all means to procure the good of the People committed to his charge. He is only fit to conduct a Ship, who underſtands the Art of a Pilot: When we are ſick, we ſeek the aſſiſtance of ſuch as are beſt skill'd in Phyſick: The Command of an Army is prudently confer'd upon him that has moſt Induſtry, Skill, Experience and Valour: In like manner, He only can, according to the rules of Nature, be advanc'd to the Dignitys of the World, who excels in the Vertues requir'd for the performance of the Dutys annex'd to them;

CHAP. I. for he only can anſwer the end of his Inſtitution, The Law of every inſtituted Power, is to accompliſh the end of its Inſtitution, as Creatures are to do the Will of their Creator, and in deflecting from it, overthrow their own being. Magiſtrats are diſtinguiſh'd from other men, by the Power with which the Law inveſts them for the publick Good: He that cannot or will not procure that Good, deſtroys his own being, and becomes like to other men. In matters of the greateſt importance, *Detur digniori* is the Voice of Nature; all her moſt ſacred Laws are perverted, if this be not obſerv'd in the diſpoſition of Governments; and all are neglected and violated, if they are not put into the hands of ſuch as excel in all manner of Vertues: for they only are worthy of them, and they only can have a right who are worthy, becauſe they only can perform the end for which they are inſtituted. This may ſeem ſtrange to thoſe, who have their heads infected with *Filmer*'s whimſys; but to others, ſo certainly grounded upon Truth, that * *Bartolomeo de las Caſas* Biſhop of *Chiapa*, in a Treatiſe written by him, and dedicated to the Emperor *Charles* V. concerning the *Indies*, makes it the foundation of all his Diſcourſe, That notwithſtanding his grant of all thoſe Countrys from the Pope, and his pretenſions to Conqueſt, he could have no right over any of thoſe Nations, unleſs he did in the firſt place, as the principal end, regard their Good: *The reaſon*, ſays he, *is, that regard is to be had to the principal End and Cauſe, for which a ſupreme or univerſal Lord is ſet over them, which is their good and profit, and not that it ſhould turn to their deſtruction and ruin; for if that ſhould be, there is no doubt but from thence forward, that Power would be tyrannical and unjuſt, as tending more to the intereſt and profit of that Lord, than to the publick good and profit of the Subjects; which, according to natural Reaſon, and the Laws of God and Man, is abhor'd, and deſerves to be abhor'd.* And in another place, ſpeaking of the Governors, who, abuſing their Power, brought many troubles and vexations upon the Indians; he ſays, † *They had rendred his Majeſty's Government intolerable, and his Yoke inſupportable, tyrannical, and moſt juſtly abhor'd.* I do not alledg this thro an opinion, that a *Spaniſh* Biſhop is of more Authority than another man; but to ſhew, that theſe are common Notions agreed by all Mankind; and that the greateſt Monarchs do neither refuſe to hear them, or to regulate themſelves according to them, till they renounce common ſenſe, and degenerate into Beaſts.

But if that Government be unreaſonable, and abhor'd by the Laws of God and Man, which is not inſtituted for the good of thoſe who live under it; and an Empire grounded upon the Donation of the Pope, which amongſt thoſe of the *Roman* Religion is of great importance, and an intire conqueſt of the People, with whom there had bin no former Compact, do degenerate into a moſt unjuſt and deteſtable Tyranny, ſo ſoon as the Supreme Lord begins to prefer his own intereſt or profit before the good of his Subjects; What ſhall we ſay of thoſe who pretend to a right

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* La razon es porque ſiempre ſe ha de tener reſpeto al fin y cauſa final, por el qual, el tal ſupremo y univerſal Sennor ſe les pone, que es ſu bien y utilitad; y a que no ſe le convierte el tal ſupremo Sennorio in danno, pernicie y deſtruycion. Porque ſi aſſi fueſſe, no ay que dudar, que non deſde entonces incluſivamente ſeria injuſto, Tyrannico y iniquo tal Sennorio, come mas ſe enderezaſſe al proprio intereſſe y provecho del Sennor, que al bien y utilitad comun de los Subditos; lo qual de la razon natural y de todas las Leyes humanas y divinas es abhorrecido y abhorreſcible. Bar. de las Caſas deſtr. de las Indias, pag. 111.

† El yugo y governacion de Vueſtra Mageſtad importable, Tirannico y degno de todo abhorrecimiento. Pag. 167.

of Dominion over free Nations, as inſeparably united to their Perſons, SECT. 17.
without diſtinction of Age or Sex, or the leaſt conſideration of their Infirmitys and Vices; as if they were not plac'd in the Throne for the good of their People, but to enjoy the Honours and Pleaſures that attend the higheſt Fortune? What name can be fit for thoſe, who have no other Title to the Places they poſſeſs, than the moſt unjuſt and violent Uſurpation; or being deſcended from thoſe, who for their Vertues were, by the Peoples conſent, duly advanc'd to the exerciſe of a legitimate Power, and having ſworn to adminiſter it, according to the Conditions upon which it was given, for the good of thoſe who gave it, turn all to their own Pleaſure and Profit, without any care of the Publick? Theſe may be liable to hard Cenſures: but thoſe who uſe them moſt gently, muſt confeſs, that ſuch an extreme deviation from the end of their Inſtitution, annuls it; and the Wound thereby given to the natural and original Rights of thoſe Nations cannot be cur'd, unleſs they reſume the Libertys of which they have bin depriv'd, and return to the antient Cuſtom of chuſing thoſe to be Magiſtrats, who for their Vertues beſt deſerve to be prefer'd before their Brethren, and are endow'd with thoſe Qualitys that beſt enable men to perform the great end of providing for the publick Safety.

SECT. XVII.

God having given the Government of the World to no one Man, nor declar'd how it ſhould be divided, left it to the Will of Man.

OUR Author's next Inquiry is, *What becomes of the Right of Fatherhood, in caſe the Crown ſhould eſcheat for want of an Heir? Whether it doth not eſcheat to the People?* His anſwer is, *'Tis but the negligence or ignorance of the People, to loſe the knowledg of the true Heir*, &c. And a little below, *The Power is not devolv'd to the Multitude: No; the Kingly Power eſcheats on independent Heads of Familys: All ſuch prime Heads have Power to conſent in the uniting, or conferring their Fatherly Right of Sovereign Authority on whom they pleaſe; and he that is ſo elected, claims not his Power as a Donative from the People, but as being ſubſtituted by God, from whom he receives his Royal Charter of Univerſal Father*, &c.

In my opinion, before he had ask'd, What ſhould be done in caſe the Crown ſhould eſcheat for want of an Heir? he ought to have prov'd, there had bin a Man in the world, who had the Right in himſelf, and telling who he was, have ſhew'd how it had bin tranſmitted for ſome Generations, that we might know where to ſeek his Heir: and before he accus'd the Multitude of ignorance or negligence, in not knowing this Heir, he ought to have inform'd us, how it may be poſſible to know him, or what it would avail us if we did know him; for 'tis in vain to know to whom a Right belongs, that never was, and never can be executed. But we may go farther, and affirm, that as the Univerſal Right muſt have bin in *Noah* and *Shem* (if in any) who never exercis'd it; we have reaſon to believe there never was any ſuch thing: And having prov'd from Scripture and Human Hiſtory, That the firſt Kingdoms were ſet up in a direct oppoſition to this Right, by *Nimrod* and others, he that ſhould ſeek and find their Heirs, would only find thoſe, who by a moſt accurſed Wickedneſs, had uſurp'd and continu'd a Dominion over their Fathers,

CHAP. I. contrary to the Laws of God and Nature; and we ſhould neither be more wiſe, nor more happy than we are, tho our Author ſhould furniſh us with certain and authentick Genealogys, by which we might know the true Heirs of *Nimrod*, and the ſeventy two Kings that went from *Babylon*, who, as he ſuppoſes, gave beginning to all the Kingdoms of the Earth.

Moreover, if the Right be Univerſal, it muſt be in one; for the World being but one, the whole Right of commanding it cannot at the ſame time be in many, and proceed from the Ordinance of God, or of Man. It cannot proceed from the Ordinance of God; for he dos nothing in vain: He never gave a Right that could not be executed. No man can govern that which he dos not ſo much as know: No man did ever know all the World; no man therefore did or could govern it: and none could be appointed by God to do that which is abſolutely impoſſible to be done; for it could not conſiſt with his Wiſdom. We find this in our ſelves. It were a ſhame for one of us poor, weak, ſhort-ſighted Creatures, in the diſpoſal of our Affairs, to appoint ſuch a method, as were utterly ineffectual for the Preſervation of our Familys, or deſtructive to them; and the blaſphemy of imputing to God ſuch an Ordinance as would be a reproach to one of us, can ſute only with the wicked and impudent Fury of ſuch as our Author, who delights in Monſters. This alſo ſhews us that it cannot be from Men: One, or a few, may commit Follys, but Mankind dos not univerſally commit, and perpetually perſiſt in any: They cannot therefore, by a general and permanent Authority, enact that which is utterly abſurd and impoſſible; or if they do, they deſtroy their own Nature, and can no longer deſerve the Name of reaſonable Creatures. There can be therefore no ſuch man; and the Folly of ſeeking him, or his Heir that never was, may be left to the Diſciples of *Filmer*.

The Difficultys are as great, if it be ſaid, The World might be divided into parcels, and we are to ſeek the Heirs of the firſt Poſſeſſors; for beſides that no man can be oblig'd to ſeek that which cannot be found, (all men knowing that *Caliginoſa nocte hæc premit Deus*) and that the Genealogys of Mankind are ſo confus'd, that, unleſs poſſibly among the *Jews*, we have reaſon to believe there is not a man in the world who knows his own Original, it could be of no advantage to us tho we knew that of every one; for the Diviſion would be of no value, unleſs it were at the firſt rightly made by him who had all the Authority in himſelf, (which dos no where appear) and rightly deduc'd to him, who, according to that diviſion, claims a right to the Parcel he enjoys. And I fear our Author would terribly ſhake the Crowns, in which the Nations of *Europe* are concern'd, if they ſhould be perſuaded to ſearch into the Genealogys of their Princes, and to judg of their Rights according to the proofs they ſhould give of Titles rightly deduc'd by ſucceſſion of Blood from the ſeventy two firſt Kings, from whom our Author fancys all the Kingdoms of the World to be deriv'd.

Beſides, tho this were done, it would be to no purpoſe; for the ſeventy two were not ſent out by *Noah*, nor was he or his Sons of that number; but they went, or were ſent, from *Babylon* where *Nimrod* reign'd, who, as has bin already prov'd, neither had, nor could have any right at all, but was a mighty Hunter, even a proud and cruel Tyrant, uſurping a Power to which he had no right, and which was perpetually exercis'd by him and his Succeſſors againſt God and his People. From whence I may ſafely cnnclude, That no right can ever be deriv'd; and may juſtly preſume

it will be denied by none who are of better Morals, and of more ſound Principles in matters of Law and Religion than *Filmer* and *Heylin*; ſince 'tis no leſs abſurd to deduce a right from him that had none, than to expect pure and wholeſom Waters from a filthy, polluted, and poiſonous Fountain. SECT. 17.

If it be pretended that ſome other man ſince *Noah* had this univerſal Right, it muſt either remain in one ſingle perſon as his right Heir, or be divided. If in one, I deſire to know who he is, and where we may find him, that the Empire of the World may be deliver'd to him. But if he cannot be found, the buſineſs is at an end: for every man in the World may pretend himſelf to be the perſon; and the infinite controverſys ariſing thereupon can never be decided, unleſs either the Genealogys of every one from *Noah* were extant and prov'd, or we had a Word from Heaven, with a ſufficient teſtimony of his miſſion who announces it. When this is done, 'twill be time to conſider what kind of obedience is due to this wonderfully happy and glorious Perſon. But whilſt the firſt appears to be abſolutely impoſſible, and we have no promiſe or reaſon to expect the other, the Propoſition is to be eſteem'd one of our Author's empty whimſys, which cannot be receiv'd by mankind, unleſs they come all to be poſſeſt with an Epidemical madneſs, which would caſt them into that which *Hobbs* calls *Bellum omnium contra omnes*; when every man's Sword would be drawn againſt every man, if God ſhould ſo abandon the World to ſuffer them to fall into ſuch miſery.

If this pretended Right be divided, it concerns us to know by whom, when, how, and to whom: for the diviſion cannot be of any value, unleſs the Right was originally in one; that he did exerciſe this Right in making the diviſion; that the parcels into which the World is divided are according to the allotment made; and that the Perſons claiming them by virtue of it are the true Heirs of thoſe to whom they were firſt granted. Many other difficultys may be alledg'd no leſs inextricable than theſe; but this ſeeming ſufficient for the preſent, I ſhall not trouble my ſelf with more, promiſing that when they ſhall be remov'd, I will propoſe others, or confeſſing my errors, yield up the cauſe.

But if the Dominion of the whole World cannot belong to any one man, and every one has an equal title to that which ſhould give it; or if it did belong to one, none did ever exerciſe it in governing the whole, or dividing it; or if he did divide it, no man knows how, when, and to whom; ſo that they who lay claim to any parcels can give no teſtimony of that diviſion, nor ſhew any better title than other men deriv'd from his firſt Progenitor, to whom 'tis ſaid to have bin granted; and that we have neither a Word, nor the promiſe of a Word from God to decide the controverſys ariſing thereupon, nor any Prophet giving teſtimony of his miſſion that takes upon him to do it, the whole Fabrick of our Author's Patriarchical Dominion falls to the ground; and they who propoſe theſe Doctrins, which (if they were receiv'd) would be a root of perpetual and reconcilable hatred in every man againſt every man, can be accounted no leſs than Miniſters of the Devil, tho they want the abilitys he has ſometimes infus'd into thoſe who have bin imploy'd upon the like occaſions. And we may juſtly conclude, that God having never given the whole World to be govern'd by one man, nor preſcrib'd any rule for the diviſion of it; nor declar'd where the right of dividing or ſubdividing that which every man has ſhould terminate; we may ſafely affirm that the whole is for ever left to the will and diſcretion of Man: We may enter into, form,

and

CHAP. I.

and continue in greater or leſſer Societys, as beſt pleaſes our ſelves: The right of Paternity as to Dominion is at an end, and no more remains, but the love, veneration, and obedience, which proceeding from a due ſenſe of the benefits of Birth and Education, have their root in Gratitude, and are eſteem'd ſacred and inviolable by all that are ſober and vertuous. And as 'tis impoſſible to transfer theſe Benefits by inheritance, ſo 'tis impoſſible to transfer the Rights ariſing from them. No man can be my Father but he that did beget me; and 'tis as abſurd to ſay I owe that Duty to one who is not my Father, which I owe to my Father, as to ſay, he did beget me, who did not beget me; for the obligation that ariſes from benefits can only be to him that confer'd them. 'Tis in vain to ſay the ſame is due to his Heir; for that can take place only when he has but one, which in this caſe ſignifies nothing: For if I being the only Son of my Father, inherit his Right, and have the ſame power over my Children as he had over me; if I had one hundred Brothers, they muſt all inherit the ſame; and the Law of *England*, which acknowledges one only Heir, is not general, but municipal, and is ſo far from being general, as the precept of God and Nature, that I doubt whether it was ever known or us'd in any Nation of the World beyond our Iſland. The words of the Apoſtle, *If we are Children, we are therefore Heirs and Co-heirs with Chriſt*, are the voice of God and Nature; and as the univerſal Law of God and Nature is always the ſame, every one of us who have Children, have the ſame Right over them, as *Abraham*, *Iſaac*, and *Jacob* had over theirs; and that Right which was not devolv'd to any one of them, but inherited by them all (I mean the right of Father as Father) not the peculiar promiſes, which were not according to the Law of Nature, but the election of Grace, is alſo inherited by every one of us, and ours, that is, by all Mankind. But if that which could be inherited was inherited by all, and it be impoſſible that a right of Dominion over all can be due to every one, then all that is or can be inherited by every one is that exemption from the Dominion of another, which we call Liberty, and is the gift of God and Nature.

SECT. XVIII.

If a right of Dominion were eſteem'd Hereditary according to the Law of Nature, a multitude of deſtructive and inextricable Controverſys would thereupon ariſe.

THere being no ſuch thing therefore, according to the Law of Nature, as an Hereditary Right to the Dominion of the World, or any part of it; nor any one man that can derive to himſelf a title from the firſt Fathers of Mankind, by which he can rightly pretend to be prefer'd before others to that command, or a part of it; and none can be deriv'd from *Nimrod*, or other Uſurpers, who had none in themſelves, we may juſtly ſpare our pains of ſeeking farther into this matter. But as things of the higheſt importance can never be too fully explain'd; it may not be amiſs to obſerve, That if Mankind could be brought to believe that ſuch a right of Dominion were by the Law of God and Nature hereditary, a great number of the moſt deſtructive and inextricable Controverſys muſt thereupon ariſe, which the wiſdom and goodneſs of God can

 never

never enjoin, and Nature, which is Reaſon, can never intend; but at preſent I ſhall only mention two, from whence others muſt perpetually ſpring. Firſt if there be ſuch a Law, no Human Conſtitution can alter it; no length of time can be a defence againſt it: All Governments that are not conformable to it are vicious and void even in their root, and muſt be ſo for ever: That which is originally unjuſt may be juſtly overthrown. We do not know of any (at leaſt in that part of the World in which we are moſt concern'd) that is eſtabliſh'd, or exercis'd with an abſolute Power, as by the Authors of thoſe opinions is eſteem'd inſeparable from it: Many, as the Empire, and other States, are directly contrary; and on that account can have no Juſtice in them. It being certain therefore that he or they who exerciſe thoſe Governments have no right: that there is a Man to whom it dos belong, and no man knowing who he is, there is no one man who has not as good a title to it as any other: There is not therefore one who has not a right, as well as any, to overthrow that which has none at all. He that has no part in the Government may deſtroy it, as well as he that has the greateſt; for he neither has that which God ordain'd he ſhould have, nor can ſhew a title to that which he enjoys from that original Prerogative of Birth, from whence it can only be deriv'd. SECT. 18.

If it be ſaid, that ſome Governments are arbitrary, as they ought to be; and *France*, *Turkey*, and the like be alledg'd as inſtances, the matter is not mended: for we do not only know when thoſe, who deſerve to be regarded by us, were not abſolute, and how they came to be ſo; but alſo, that thoſe very Familys which are now in poſſeſſion are not of very long continuance, had no more title to the original right we ſpeak of than any other men, and conſequently can have none to this day. And tho we cannot perhaps ſay that the Governments of the barbarous Eaſtern Nations were ever other than they are, yet the known Original of them deprives them of all pretence to the Patriarchical Inheritance; and they may be as juſtly as any other depriv'd of the Power to which they have no title.

In the ſecond place, tho all mens Genealogys were extant, and fully verifi'd, and it were allow'd that the Dominion of the World, or every part of it, did belong to the right Heir of the firſt Progenitor, or any other to whom the firſt did rightly aſſign the Parcel, which is under queſtion; yet it were impoſſible for us to know who ſhould be eſteem'd the true Heir, or according to what rule he ſhould be judg'd ſo to be: for God has not by a preciſe word determin'd it, and Men cannot agree about it, as appears by the various Laws and Cuſtoms of ſeveral Nations, diſpoſing ſeverally of Hereditary Dominions.

'Tis a folly to ſay, they ought to go to the next in blood; for 'tis not known who is that next. Some give the preference to him who amongſt many Competitors is the feweſt degrees remov'd from their common Progenitor who firſt obtain'd the Crown: Others look only upon the laſt that poſſeſt it. Some admit of Repreſentation, by which means the Grandchild of a King by his eldeſt Son, is prefer'd before his ſecond Son, he being ſaid to repreſent his dead Father, who was the eldeſt: Others exclude theſe, and advance the younger Son, who is nearer by one degree to the common Progenitor that laſt enjoy'd the Crown than the Grandchild. According to the firſt rule, *Richard* II. was advanc'd to the Crown of *England*, as Son of the eldeſt Son of *Edward* III. before his Uncles, who by one degree were nearer to the laſt Poſſeſſor: And in purſuance of the ſecond, *Sancho* ſirnam'd the Brave, ſecond Son of *Alphonſo* the Wiſe,

King

CHAP. I. King of *Caſtile*, was prefer'd before *Alphonſo* Son of *Ferdinand* his eldeſt Brother, according to the Law of *Thaneſtry*, which was in force in *Spain* ever ſince we have had any knowledg of that Country, as appears by the conteſt between *Corbis* and *Orſua*, decided by Combat before *Scipio Africanus*; continu'd in full force as long as the Kingdom of the *Goths* laſted, and was ever highly valu'd, till the Houſe of *Auſtria* got poſſeſſion of that Country, and introduc'd Laws and Cuſtoms formerly unknown to the Inhabitants.

The Hiſtorys of all Nations furniſh us with innumerable Examples of both ſorts; and whoſoever takes upon him to determin which ſide is in the right, ought to ſhew by what authority he undertakes to be the Judg of Mankind, and how the infinite breaches thereby made upon the rights of the governing Familys ſhall be cur'd, without the overthrow of thoſe that he ſhall condemn, and of the Nations where ſuch Laws have bin in force as he diſlikes: and till that be done, in my opinion, no place will afford a better lodging for him that ſhall impudently aſſume ſuch a Power, than the new buildings in *Moor-Fields*.

'Tis no leſs hard to decide whether this next Heir is to be ſought in the Male Line only, or whether Females alſo may be admitted. If we follow the firſt as the Law of God and Nature, the title of our *Engliſh* Kings is wholly aboliſh'd; for not one of them ſince *Henry* the *1ſt* has had the leaſt pretence to an inheritance by the Maſculine Line; and if it were neceſſary, we have enough to ſay of thoſe that were before him.

If it be ſaid, that the ſame Right belongs to Females, it ought to be prov'd that Women are as fit as Men to perform the Office of a King, that is, as the *Iſraelites* ſaid to *Samuel*, to go in and out before us, to judg us, and to fight our Battels; for it were an impious folly to ſay that God had ordain'd thoſe for the Offices on which the good of Mankind ſo much depends, who by nature are unable to perform the dutys of them. If on the other ſide, the ſweetneſs, gentleneſs, delicacy, and tenderneſs of the Sex render them ſo unfit for manly exerciſes, that they are accounted utterly repugnant to, and inconſiſtent with that modeſty which dos ſo eminently ſhine in all thoſe that are good amongſt them; that Law of Nature which ſhould advance them to the Government of Men, would overthrow its own Work, and make thoſe to be the Heads of Nations, which cannot be the Heads of privat Familys; for, as the Apoſtle ſays, *The Woman is not the head of the Man, but the Man is the head of the Woman.* This were no leſs than to oblige Mankind to lay aſide the name of reaſonable Creature: for if Reaſon be his Nature, it cannot enjoin that which is contrary to it ſelf; if it be not, the definition *Homo eſt animal rationale*, is falſe, and ought no longer to be aſſum'd.

If any man think theſe Arguments to be miſtaken or miſappli'd, I deſire him to enquire of the *French* Nation on what account they have always excluded Females, and ſuch as deſcended from them? How comes the Houſe of *Bourbon* to be advanc'd to the Throne before a great Number of Familys that come from the Daughters of the Houſe of *Valois?* Or what title thoſe could have before the Daughters of the other Lines, deſcended from *Hugh Capet*, *Pepin*, *Meroveus*, or *Pharamond?* I know not how ſuch queſtions would be receiv'd; but I am inclin'd to think that the wickedneſs and folly of thoſe who ſhould thereby endeavour to overthrow the moſt antient and moſt venerated Conſtitutions of the greateſt Nations, and by that means to involve them in the moſt inextricable difficultys, would be requited only with Stones. *

It cannot be denied, that the moſt valiant, wiſe, learned, and beſt po SECT. 18.
liſh'd Nations have always follow'd the ſame Rule, tho the * weak and barbarous acted otherwiſe; and no man ever heard of a Queen, or a man deriving his title from a Female among the antient civiliz'd Nations. But if this be not enough, the Law of God, that wholly omits Females, is ſufficient to ſhew that Nature, which is his Handmaid, cannot advance them. When God deſcribes who ſhould be the King of his People (if they would have one) and how he ſhould govern; no mention is made Deut. 17.
of Daughters. The *Iſraelites* offer'd the Kingdom to *Gideon*, and to his Sons: God promis'd, and gave it to *Saul*, *David*, *Jeroboam*, *Jehu*, and their Sons. When all of them, ſave *David*, by their Crimes fell from the Kingdom, the Males only were extirpated; and the Females who had no part in the Promiſes, did not fall under the Penaltys, or the Vengeance that was executed upon thoſe Familys: and we do not in the Word of God, or in the Hiſtory of the *Jews*, hear of any Feminin Reign, except that which was uſurp'd by *Athaliah*; nor that any conſideration was had of their Deſcendents in relation to the Kingdom: which is enough to ſhew that it is not according to the Law of God, nor to the Law of Nature, which cannot differ from it. So that Females, or ſuch as derive their right by inheritance from Females, muſt have it from ſome other Law, or they can have none at all.

But tho this queſtion were authentically decided, and concluded that Females might or might not ſucceed, we ſhould not be at the end of our conteſts: for if they were excluded, it would not from thence follow, as in *France*, that their Deſcendents ſhould be ſo alſo; for the Privilege which is denied to them, becauſe they cannot, without receding from the modeſty and gentleneſs of the Sex, take upon them to execute all the Dutys requir'd, may be transfer'd to their Children, as *Henry* the ſecond and *Henry* the ſeventh were admitted, tho their Mothers were rejected.

If it be ſaid that every Nation ought in this to follow their own Conſtitutions, we are at an end of our Controverſys; for they ought not to be follow'd, unleſs they are rightly made: They cannot be rightly made, if they are contrary to the univerſal Law of God and Nature. If there be a general Rule, 'tis impoſſible but ſome of them, being directly contrary to each other, muſt be contrary to it. If therefore all of them are to be follow'd, there can be no general Law given to all; but every People is by God and Nature left to the liberty of regulating theſe matters relating to themſelves according to their own prudence or convenience: and this ſeems to be ſo certainly true, that whoſoever dos, as our Author, propoſe Doctrins to the contrary, muſt either be thought raſhly to utter that which he dos not underſtand, or malicioufly to caſt balls of Diviſion among all Nations, whereby every man's Sword would be drawn againſt every man, to the total ſubverſion of all Order and Government.

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* Reginarumq; ſub armis
Barbaries pars magna jacet. *Lucan. Phar.*

SECT. XIX.

Kings cannot confer the right of Father upon Princes, nor Princes upon Kings.

LEST what has bin ſaid before by our Author ſhould not be ſufficient to accompliſh his deſign of bringing confuſion upon Mankind, and ſome may yet lie ſtill for want of knowing at whoſe command he ſhould cut his Brother's throat, if he has not power or courage to ſet up a title for himſelf, he has a new project that would certainly do his work, if it were receiv'd. Not content with the abſurditys and untruths already utter'd in giving the incommunicable right of Fathers, not only to thoſe who, as is manifeſtly teſtify'd by ſacred and profane Hiſtorys, did uſurp a power over their Fathers, or ſuch as ow'd no manner of obedience to them: and juſtifying thoſe Uſurpations, which are moſt odious to God and all good men, he now fancys a Kingdom ſo gotten may eſcheat for want of an Heir; whereas there is no need of ſeeking any, if Uſurpation can confer a Right, and that he who gets the Power into his hands, ought to be reputed the right Heir of the firſt Progenitor; for ſuch a one will ſeldom be wanting, if violence and fraud be juſtified by the command of God, and Nations ſtand oblig'd to render obedience, till a ſtronger or more ſucceſsful Villain throws him from the Throne he had invaded. But if it ſhould come to paſs that no man would ſtep into the vacant place, he has a new way of depriving the People of their Right to provide for the Government of themſelves. *Becauſe*, ſays he, *the dependency of antient Familys is oft obſcure, and worn out of knowledg; therefore the Wiſdom of all or moſt Princes has thought fit many times to adopt thoſe for Heads of Familys, and Princes of Provinces, whoſe merits, abilitys, or fortunes have ennobled them, and made them fit and capable of ſuch Royal Favours: All ſuch prime Heads and Fathers have power to conſent to the uniting and conferring of their fatherly Right and Sovereignty on whom they pleaſe*, &c.

I may juſtly ask how any one or more Familys come to be eſteem'd more antient than others, if all are deſcended from one common Father, as the Scriptures teſtify; or to what purpoſe it were to inquire what Familys were the moſt antient, if there were any ſuch, when the youngeſt and moſt mean by uſurpation gets an abſolute right of Dominion over the eldeſt, tho his own Progenitors, as *Nimrod* did: but I may certainly conclude, That whatever the Right be that belongs to thoſe antient Familys, it is inherent in them, and cannot be confer'd on any other by any human Power; for it proceeds from Nature only. The Duty I owe to my Father dos not ariſe from an uſurp'd or delegated Power, but from my birth deriv'd from him; and 'tis as impoſſible for any man to uſurp or receive, by the grant of another, the right of a Father over me, as for him to become, or pretend to be made my Father by another who did not beget me. But if he ſay true, this right of Father dos not ariſe from Nature; nor the obedience that I owe to him that begot me, from the benefits which I receiv'd, but is merely an artificial thing depending upon the Will of another: and that we may be ſure there can be no error in this, our Author attributes it to the wiſdom of Princes. But before this

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comes to be authentick, we muſt at the leaſt be ſure that all Princes have this great and profound Wiſdom, which our Author acknowledges to be in them, and which is certainly neceſſary for the doing of ſuch great things, if they were refer'd to them. They ſeem to us to be born like other men, and to be generally no wiſer than other men. We are not oblig'd to believe that *Nebuchadnezzar* was wiſe, till God had given him the heart of a man; or that his Grandſon *Belſhazzar*, who being laid in the balance was found too light, had any ſuch profound Wiſdom. *Ahaſuerus* ſhew'd it not in appointing all the People of God to be ſlain, upon a Lie told to him by a Raſcal; and the matter was not very much mended, when being inform'd of the truth, he gave 'em leave to kill as many of their Enemys as they pleas'd. The hardneſs of *Pharaoh*'s heart, and the overthrow thereby brought upon himſelf and People, dos not argue ſo profound a Judgment as our Author preſumes every Prince muſt have: And 'tis not probable that *Samuel* would have told *Saul*, *He had done fooliſhly*, if Kings had always bin ſo exceeding wiſe: Nay, if Wiſdom had bin annex'd to the Character, *Solomon* might have ſpar'd the pains of asking it from God, and *Rehoboam* muſt have had it. Not to multiply examples out of Scripture, 'tis believ'd that *Xerxes* had not inflicted Stripes upon the Sea for breaking his Navy in pieces, if he had bin ſo very wiſe. *Caligula* for the ſame reaſon might have ſav'd the labour of making love to the Moon, or have choſen a fitter Subject to advance to the Conſulat than his Horſe *Incitatus*: *Nero* had not endeavour'd to make a Woman of a Man, nor married a Man as a Woman. Many other Examples might be alledg'd to ſhew that Kings are not always wiſe: and not only the *Roman* Satyriſt, who ſays *Quicquid delirant Reges*, &c. ſhews that he did not believe them to be generally wiſer than other men; but *Solomon* himſelf judges them to be as liable to infirmitys, when he prefers a wiſe Child before an old and fooliſh King. If therefore the ſtrength of our Author's Argument lies in the certainty of the Wiſdom of Kings, it can be of no value, till he proves it to be more univerſal in them than Hiſtory or Experience will permit us to believe. Nay, if there be Truth or Wiſdom in the Scripture, which frequently repreſents the wicked Man as a Fool, we cannot think that all Kings are wiſe, unleſs it be prov'd that none of them have bin wicked; and when this is perform'd by *Filmer*'s Diſciples, I ſhall confeſs my error.

SECT. 19

Sueton.

Horat.

Men give teſtimony of their Wiſdom, when they undertake that which they ought to do, and rightly perform that which they undertake; both which points do utterly fail in the ſubject of our Diſcourſe. We have often heard of ſuch as have adopted thoſe to be their Sons who were not ſo, and ſome Civil Laws approve it. This ſignifies no more, than that ſuch a Man, either thro affection to one who is not his Son, or to his Parents, or for ſome other reaſon, takes him into his Family, and ſhews kindneſs to him, as to his Son: but the adoption of Fathers is a whimſical piece of nonſenſe. If this be capable of an aggravation, I think none can be greater, than not to leave it to my own diſcretion, who having no Father, may reſolve to pay the Duty I ow'd to my Father to one who may have ſhew'd Kindneſs to me; but for another to impoſe a Father upon a Man, or a People compos'd of Fathers, or ſuch as have Fathers, whereby they ſhould be depriv'd of that natural Honour and Right which he makes the foundation of his Diſcourſe, is the utmoſt of all abſurditys. If any Prince therefore has ever undertaken to appoint Fathers of his People, he cannot be accounted a man of profound Wiſdom, but a Fool or a

CHAP. I.

Madman; and his Acts can be of no value. But if the thing were conſonant to Nature, and refer'd to the Will of Princes (which I abſolutely deny) the frequent Extravagancy's committed by them in the elevation of their Favorites, ſhews that they intend not to make them Fathers of the People, or know not what they do when they do it.

To chuſe or inſtitute a Father is nonſenſe in the very term; but if any were to be choſen to perform the Office of Fathers to ſuch as have none, and are not of age to provide for themſelves (as men do Tutors or Guardians for Orphans) none could be capable of being elected, but ſuch as in kindneſs to the perſon they were to take under their care, did moſt reſemble his true Father, and had the virtues and abilitys requir'd rightly to provide for his good. If this fails, all Right ceaſes; and ſuch a corruption is introduc'd as we ſaw in our Court of Wards, which the Nation could not bear, when the Inſtitution was perverted, and the King, who ought to have taken a tender care of the Wards and their Eſtates, deliver'd 'em as a prey to thoſe whom he favour'd.

Our Author ridiculouſly attributes the Title and Authority of Father to the word *Prince*; for it has none in it, and ſignifies no more than a Man, who in ſome kind is more eminent than the Vulgar. In this ſenſe *Mutius Scævola* told *Porſenna*, that *Three hundred Princes of the* Roman *Youth had conſpir'd againſt him:* By which he could not mean that three hundred Fathers of the *Roman* Youth, but three hundred *Roman* young men had conſpir'd; and they could not be Fathers of the City, unleſs they had bin Fathers of their own Fathers. *Princeps Senatus* was underſtood in the ſame ſenſe; and *T. Sempronius* the Cenſor, chuſing *Q. Fabius Maximus* to that Honour, gave for a reaſon, *Se lecturum Q. Fabium Maximum, quem tum Principem Romanæ Civitatis eſſe, vel Annibale judice, dicturus eſſet*; which could not be underſtood that *Hannibal* thought him to be the Father or Lord of the City (for he knew he was not) but the Man who for Wiſdom and Valour was the moſt eminent in it.

Trecenti Romanæ juventutis Principes. *T. Liv.*

T. Liv. l. 7.

The like are and ought to be the Princes of every Nation; and tho ſomething of Honour may juſtly be attributed to the Deſcendents of ſuch as have done great Services to their Country, yet they who degenerate from them cannot be eſteem'd Princes; much leſs can ſuch Honours or Rights be confer'd upon Court-creatures or Favorites. *Tiberius, Caligula, Claudius, Nero, Galba,* and others, could advance *Macro, Pallas, Narciſſus, Tigellinus, Vinnius, Laco,* and the like, to the higheſt degrees of Riches and Power; but they ſtill continu'd to be Villains, and ſo they died.

No wiſe or good Man ever thought otherwiſe of thoſe, who thro the folly of Princes have bin advanc'd to the higheſt places in ſeveral Countrys. The madneſs of attributing to them a paternal power, ſeems to have bin peculiarly reſerv'd to compleat the infamy of our Author; for he only could acknowledg a cooptitious Father, or give to another man the power of chuſing him. I confeſs that a man in his infancy may have bin expos'd, like *Moſes, Cyrus, Oedipus, Romulus:* He may have bin taken in War; or by the charity of ſome good perſon ſav'd from the teeth of wild Beaſts, or from the Sword by which his Parents fell, and may have bin educated with that care which Fathers uſually have of their Children: 'tis reaſonable that ſuch a one in the whole courſe of his life ſhould pay that veneration and obedience to him, who gave him as it were a ſecond birth, which was due to his natural Father; and this, tho improperly,

may be call'd an Adoption. But to think that any man can aſſume it to himſelf, or confer it upon another, and thereby arrogate to himſelf the ſervice and obedience, which, by the moſt tender and ſacred Laws of Nature, we owe to thoſe from whom we receive Birth and Education, is the moſt prepoſterous folly that hitherto has ever enter'd into the heart of man. SECT. 19.

Our Author nevertheleſs is not aſham'd of it, and gives Reaſons no way unſutable to the Propoſition. *Men are*, ſays he, *adopted Fathers of Provinces for their Abilitys, Merits, or Fortunes.* But theſe Abilitys can ſimply deſerve nothing; for if they are ill employ'd, they are the worſt of Vices, and the moſt powerful Inſtruments of Miſchief. Merits, in regard of another, are nothing unleſs they be to him; and he alone can merit from me the reſpect due to a Father, who has confer'd Benefits upon me, in ſome meaſure proportionable to thoſe which we uſually receive from our Fathers: and the world may judg, whether all the Court-Miniſters and Favorites that we have known, do upon this account deſerve to be eſteem'd Fathers of Nations. But to allow this on account of their Fortunes, is, if poſſible, more extravagant than any thing that has bin yet utter'd. By this account *Mazarin* muſt have bin Father of the *French* Nation: The ſame Right was inherited by his chaſt Niece, and remain'd in her, till ſhe and her ſilly Husband diſſipated the Treaſures which her Uncle had torn from the Bowels of that People. The Partizans may generally claim the ſame Right over the Provinces they have pillag'd: *Old Audley, Dog Smith*, Bp *Duppa, Brownloe, Child, Daſhwood, Fox*, &c. are to be eſteem'd Fathers of the People of *England.* This Doctrin is perfectly Canonical, if *Filmer* and *Heylin* were good Divines; and Legal, if they judg'd more rightly touching matters of Law. But if it be abſurd and deteſtable, they are to be reputed Men, who, by attributing the higheſt Honours to the vileſt Wretches of the world, for what they had gain'd by the moſt abominable means, endeavour to encreaſe thoſe Vices, which are already come to ſuch a height, that they can by no other way be brought to a greater. Daily experience too plainly ſhews, with what rage Avarice uſually fills the hearts of men. There are not many deſtructive Villanys committed in the World, that do not proceed from it. In this reſpect 'tis call'd *Idolatry*, and *the root of all evil. Solomon* warns us to beware of ſuch as make haſt to grow rich, and ſays, they ſhall not be innocent. But 'tis no matter what the Prophets, the Apoſtles, or the wiſeſt of men ſay of Riches, and the ways of gaining them; for our Author tells us, that men of the greateſt Fortunes, without examining how they came to them, or what uſe they make of them, deſerve to be made Fathers of Provinces.

But this is not his only quarrel with all that is juſt and good: His whole Book goes directly againſt the letter and ſpirit of the Scripture. The work of all thoſe, whom God in ſeveral Ages has rais'd up to announce his Word, was to abate the Luſts and Paſſions that ariſe in the hearts of men; to ſhew the vanity of worldly Enjoyments, with the dangers that accompany Riches and Honors, and to raiſe our hearts to the love of thoſe Treaſures that periſh not. Honeſt and wiſe men, following the Light of Nature, have in ſome meaſure imitated this. Such as liv'd private lives, as *Plato, Socrates, Epictetus*, and others, made it their buſineſs to abate mens Luſts, by ſhewing the folly of ſeeking vain Honors, uſeleſs Riches, or unſatisfying Pleaſures; and thoſe who were like to them, if they were rais'd to ſupreme Magiſtracys, have endeavour'd by the ſevereſt Puniſh-

ments

CHAP. I. ments to reſtrain men from commiting the Crimes by which Riches are moſt commonly gain'd: but *Filmer* and *Heylin* lead us into a new way. If they deſerve credit, whoſoever would become ſupreme Lord and Father of his Country, abſolute, ſacred and inviolable, is only to kill him that is in the head of the Government: Uſurpation confers an equal Right with Election or Inheritance: We are to look upon the Power, not the Ways by which it is obtain'd: Poſſeſſion only is to be regarded; and men muſt venerate the preſent Power, as ſet up by God, tho gain'd by Violence, Treachery or Poiſon: Children muſt not impoſe Laws upon, nor examin the Actions of their Father. Thoſe who are a little more modeſt, and would content themſelves with the Honour of being Fathers and Lords only of Provinces, if they get Riches by the favour of the King, or the favour of the King by Riches, may receive that honour from him: The Lord Paramount may make them peculiar Lords of each Province as ſacred as himſelf; and by that means every man ſhall have an immediat and a ſubaltern Father. This would be a Spur to excite even the moſt ſleeping Luſts; and a Poiſon that would fill the gentleſt Spirits with the moſt violent Furys. If men ſhould believe this, there would hardly be found one of whom it might not be ſaid, *Hac ſpe, minanti fulmen occurret Jovi.* No more is requir'd to fill the World with Fire and Blood, than the reception of theſe Precepts: No man can look upon that as a Wickedneſs, which ſhall render him Sacred; nor fear to attempt that which ſhall make him God's Vicegerent. And I doubt, whether the wickedneſs of filling mens heads with ſuch Notions was ever equal'd, unleſs by him who ſaid, *Ye ſhall not die, but be as Gods.*

Senec. Theb.

But ſince our Author is pleas'd to teach us theſe ſtrange things, I wiſh he would alſo have told us, how many men in every Nation ought to be look'd upon as adopted Fathers: What proportion of Riches, Ability or Merit, is naturally or divinely requir'd to make them capable of this ſublime Character: Whether the Right of this Chimerical Father dos not deſtroy that of the Natural; or whether both continue in force, and men thereby ſtand oblig'd, in deſpite of what Chriſt ſaid, to ſerve two Maſters. For if the Right of my Artificial Father ariſe from any Act of the King, in favour of his Riches, Abilitys or Merit, I ought to know whether he is to excel in all, or any one of theſe Points; How far, and which of 'em gives the preference; ſince 'tis impoſſible for me to determin whether my Father, who may be wiſe, tho not rich, is thereby deveſted of his Right, and it comes to be transfer'd to another, who may be rich tho not wiſe, nor of any perſonal merit at all, till that Point be decided; or, ſo much as to gueſs when I am emancipated from the Duty I owe to him, by whom I was begotten and educated, unleſs I know whether he be fallen from his Right, thro want of Merit, Wiſdom or Eſtate; and that can never be, till it be determin'd, that he has forfeited his Right, by being defective in all, or any of the three; and what proportion of Merit, Wiſdom or Eſtate is requir'd in him, for the enjoyment of his Right, or in another that would acquire it: for no man can ſucceed to the Right of another, unleſs the firſt Poſſeſſor be rightly depriv'd of it; and it cannot belong to them both, becauſe common ſenſe univerſally teaches, that two diſtinct Perſons cannot, at the ſame time, and in the ſame degree, have an equal Right to the ſame individual thing.

The Right of Father cannot therefore be confer'd upon Princes by Kings, but muſt for ever follow the Rule of Nature. The Character of a Father is indelible, and incommunicable: The Duty of Children ariſing from Benefits receiv'd is perpetual, becauſe they can never not have receiv'd them, and can be due only to him from whom they are receiv'd. For theſe Reaſons we ſee, that ſuch as our Author calls Princes, cannot confer it upon a King; for they cannot give what they have not in themſelves: They who have nothing, can give nothing: They who are only ſuppoſititious, cannot make another to be real; and the Whimſy of Kings making Princes to be Fathers, and Princes conferring that Right on Kings, comes to nothing. SECT. 20.

SECT. XX.

All juſt Magiſtratical Power is from the People.

HAVING prov'd that the Right of a Father proceeds from the Generation and Education of his Children: That no man can have that Right over thoſe, whom he has not begotten and educated: That every man has it over thoſe who owe their Birth and Education to him: That all the Sons of *Noah*, *Abraham*, *Iſaac*, *Jacob*, and others, did equally inherit it: That by the ſame Reaſons, it dos for ever belong to every man that begets Children; it plainly appears, that no Father can have a Right over others, unleſs it be by them granted to him, and that he receive his Right from thoſe who granted it. But our Author, with an admirable ſagacity peculiar to himſelf, diſcovers, and with equal confidence tells us, that that which is from the People, or the chief Heads of them, is not from the People: *He that is ſo elected*, ſays he, *claims not his Right from the People as a Donative, but from God.* That is, if I miſtake not, *Romulus* was not made King of the *Romans* by that People, but by God: Thoſe men being newly gather'd together, had two Fathers, tho neither of them had any Children; and no man knew who was their Father, nor which of 'em was the elder: But *Romulus* by the ſlaughter of his Brother decided all Queſtions, and purchas'd to himſelf a Royal Charter from God; and the Act of the People which confer'd the Power on him, was the Act of God. We had formerly learnt, that whatſoever was done by Monarchs, was to be imputed to God; and that whoſoever murder'd the Father of a People, acquir'd the ſame Right to himſelf: but now it ſeems, that Nations alſo have the ſame privilege, and that God dos what they do. Now I underſtand why it was ſaid of old, *Vox Populi eſt Vox Dei:* But if it was ſo in regard of *Romulus*, the ſame muſt be confeſt of *Tullus Hoſtilius*, *Ancus Martius*, *Tarquinius Priſcus*, and *Servius Tullus*; who being all ſtrangers to each other, and moſt of them Aliens alſo, were ſucceſſively advanc'd by the ſame People, without any reſpect to the Children, Relations or Heirs of their Predeceſſors. And I cannot comprehend, why the Act of the ſame People ſhould not have the ſame Virtue, and be equally attributed to God, when they gave the ſame or more power to Conſuls, Military Tribunes, *Decemviri*, or Dictators; or why the ſame Divine Character ſhould not be in the ſame manner confer'd upon any Magiſtracys, that by any People have bin, are, or ſhall be at any time erected for the ſame ends.

Upon

CHAP. I. Upon the ſame grounds we may conclude, that no Privilege is peculiarly annex'd to any Form of Government; but that all Magiſtrats are equally the Miniſters of God, who perform the Work for which they were inſtituted; and that the People which inſtitutes them, may proportion, regulate and terminate their Power, as to time, meaſure, and number of Perſons, as ſeems moſt convenient to themſelves, which can be no other than their own good. For it cannot be imagin'd that a multitude of People ſhould ſend for *Numa*, or any other Perſon to whom they ow'd nothing, to reign over 'em, that he might live in Glory and Pleaſure; or for any other reaſon, than that it might be good for them and their Poſterity. This ſhews the Work of all Magiſtrats to be always and every where the ſame, even the doing of Juſtice, and procuring the Welfare of thoſe that create them. This we learn from common ſenſe: *Plato*, *Ariſtotle*, *Cicero*, and the beſt human Authors lay it as an unmovable Foundation, upon which they build their Arguments relating to matters of that nature: And the Apoſtle from better Authority declares,

Rom. 13. *That Rulers are not a terror to good Works, but to Evil: Wilt thou then not be afraid of the Power? do that which is good, and thou ſhalt have praiſe of the ſame; for he is the Miniſter of God unto thee for good: But if thou do that which is evil, be afraid; for he bears not the Sword in vain; for he is the Miniſter of God, a revenger to execute Wrath upon him that doth evil.*

1 Tim. 2. And the reaſon he gives *for praying for Kings, and all that are in Authority*, is, *that we may live a quiet and peaceable life, in all godlineſs and honeſty.* But if this be the Work of the Magiſtrate, and the glorious Name of God's Miniſter be given to him for the performance of it, we may eaſily ſee to whom that Title belongs. *His Children and Servants ye are, whoſe Works ye do.* He therefore, and he only, is the Servant of God, who dos the Work of God; who is a terror to thoſe that do evil, and a praiſe to thoſe that do well; who bears the Sword for the puniſhment of Wickedneſs and Vice, and ſo governs, that the People may live quietly in all godlineſs and honeſty. The order of his Inſtitution is inverted, and the Inſtitution vacated, if the Power be turn'd to the praiſe of thoſe that do evil, and becomes a terror to ſuch as do well; and that none who live honeſtly and juſtly can be quiet under it. If God be the Fountain of Juſtice, Mercy and Truth, and thoſe his Servants who walk in them, no exerciſe of Violence, Fraud, Cruelty, Pride, or Avarice, is patroniz'd by him: and they who are the Authors of thoſe Villanys, cannot but be the Miniſters of him, who ſets himſelf up againſt God; becauſe 'tis impoſſible that Truth and Falſhood, Mercy and Cruelty, Juſtice and the moſt violent Oppreſſion can proceed from the ſame Root. It was a folly and a lie in thoſe *Jews*, to call themſelves the Children of *Abraham*, who did not the Works of *Abraham*; and Chriſt declar'd them to be the Chil-

John 8. 39. dren of the Devil, whoſe Works they did; which words proceeding from the Eternal Truth, do as well indicate to us whoſe Child and Servant every man is to be accounted, as to thoſe who firſt heard them.

If our Author's former Aſſertions were void of Judgment and Truth, his next Clauſe ſhews a great defect in his Memory, and contradicts the former: *The Judgments of God*, ſays he, *who has Power to give and take away Kingdoms, are moſt juſt; yet the miniſtry of Men, who execute God's Judgments without Commiſſion, is ſinful and damnable.* If it be true, as he ſays, that we are to look at the Power, not the Ways by which it is gain'd; and that he who has it, whether it be by Uſurpation, Conqueſt, or any other means, is to be accounted as Father, or right Heir to the

Father

Father of the People, to which Title the moſt ſublime and divine Privileges are annex'd; a man who by the moſt wicked and unjuſt Actions advances himſelf to the Power, becomes immediatly the Father of the People, and the Miniſter of God; which I take to be a piece of Divinity worthy our Author and his Diſciples. SECT. 19.

It may be doubted what he means by a Commiſſion from God; for we know of none but what is outwardly by his Word, or inwardly by his Spirit; and I am apt to think, that neither he nor his Abettors allowing of either as to the Point in queſtion, he dos foully prevaricate, in alledging that which he thinks cannot be of any effect. If any man ſhould ſay, that the Word of God to *Moſes*, *Joſhua*, *Ehud*, *Gideon*, *Samuel*, *Jeroboam* and *Jehu*, or any others, are, in the like caſes, Rules to be obſerv'd by all; becauſe that which was from God was good, that which was good, is good; and he that dos good, is juſtified by it: He would probably tell us, that what was good in them, is not good in others; and that the Word of God dos juſtify thoſe only to whom it is ſpoken: That is to ſay, No man can execute the juſt Judgments of God, to the benefit of mankind, according to the Example of thoſe Servants of God, without damnable ſin, unleſs he have a preciſe Word particularly directed to him for it, as *Moſes* had. But if any man ſhould pretend that ſuch a Word was come to him, he would be accounted an Enthuſiaſt, and obtain no credit. So that, which way ſoever the Clauſe be taken, it appears to be full of Fraud, confeſſing only in the Theory, that which he thinks can never be brought into practice; that his beloved Villanys may be thereby ſecur'd, and that the glorious Examples of the moſt heroick Actions, perform'd by the beſt and wiſeſt men that ever were in the World for the benefit of mankind, may never be imitated.

The next Clauſe ſhews, that I did our Author no wrong in ſaying, that he gave a right to Uſurpation; for he plainly ſays, *That whether the Prince be the ſupreme Father of his People, or the true Heir of ſuch a Father; or whether he come to the Crown by Uſurpation, or Election of the Nobles or People, or by any other way whatſoever*, &c. *it is the only Right and Authority of the natural Father.* In the 3*d Chap.* Sect. 8. *It skills not which way the King comes by his Power, whether by Election, Donation, Succeſſion, or by any other means.* And in another place, *That we are to regard the Power, not the Means by which it is gain'd.* To which I need ſay no more, than that I cannot ſufficiently admire the ingeniouſly invented Title of Father by Uſurpation; and confeſs, that ſince there is ſuch a thing in the World, to which not only privat men, but whole Nations owe obedience, whatſoever has bin ſaid antiently, (as was thought to expreſs the higheſt exceſs of Fury and Injuſtice) as, *Jus datum ſceleri*; *Jus omne in ferro eſt ſitum*; *Jus licet in jugulos noſtros ſibi fecerit enſe*; *Sylla potens Mariuſq; ferox & Cinna cruentus, Cæſareæque domus ſeries*; were ſolid Truths, good Law and Divinity; which did not only ſignify the actual exerciſe of the Power, but induc'd a conſcientious Obligation of obeying it. The Powers ſo gain'd, did carry in themſelves the moſt ſacred and inviolable Rights; and the actors of the moſt deteſtable Villanys thereby became the Miniſters of God, and the Fathers of their ſubdu'd People. Or if this be not true, it cannot be denied, that *Filmer* and his followers, in the moſt impudent and outragious Blaſphemy, have ſurpaſt all that have gone before 'em. Lucan. &c.

To confirm his Aſſertion, he gives us a wonderful explanation of the fifth Commandment; which, he ſays, enjoins Obedience to Princes, un-

CHAP. I.

der the terms of, *Honour thy Father and thy Mother*; drawing this Inference, *That as all Power is in the Father, the Prince who hath it, cannot be reſtrain'd by any Law; which being grounded upon the perfect likeneſs between Kings and Fathers, no man can deny it to be true.* But if *Claudius* was the Father of the *Roman* People, I ſuppoſe the chaſt *Meſſalina* was the Mother, and to be honour'd by virtue of the ſame Commandment: But then I fear that ſuch as met her in the moſt obſcene places, were not only guilty of Adultery, but of Inceſt. The ſame Honour muſt needs belong to *Nero* and his vertuous *Poppæa*, unleſs it were transfer'd to his new-made Woman *Sporus*; or perhaps he himſelf was the Mother, and the glorious Title of *Pater Patriæ* belong'd to the Raſcal, who married him as a Woman. The like may be ſaid of *Agathocles*, *Dionyſius*, *Phalaris*, *Buſiris*, *Machanidas*, *Peter* the Cruel of *Caſtile*, *Chriſtiern* of *Denmark*, the laſt Princes of the Houſe of *Valois* in *France*, and *Philip* the Second of *Spain*. Thoſe Actions of theirs which men have ever eſteem'd moſt deteſtable, and the whole courſe of their abominable Government, did not proceed from Pride, Avarice, Cruelty, Madneſs and Luſt, but from the tender care of moſt pious Fathers. *Tacitus* ſadly deſcribes the ſtate of his Country: *Urbs incendiis vaſtata, conſumptis antiquiſſimis delubris, ipſo Capitolio Civium manibus incenſo; pollutæ Ceremoniæ; magna Adulteria; plenum Exiliis mare; infecti cædibus ſcopuli; atrocius in Urbe ſævitum; Nobilitas, opes, omiſſi vel geſti honores pro crimine, & ob virtutes certiſſimum exitium:* But he was to blame; all this proceeded from the ardency of a paternal Affection. When *Nero*, by the death of *Helvidius Priſcus* and *Thraſeas*, endeavour'd to cut up Vertue by the roots, *ipſam exſcindere virtutem*, he did it, becauſe he knew it was good for the World that there ſhould be no vertuous man in it. When he fir'd the City, and when *Caligula* wiſh'd the People had but one Neck that he might ſtrike it off at one blow, they did it thro a prudent care of their Childrens good, knowing it would be for their advantage to be deſtroy'd; and that the empty deſolated World would be no more troubled with popular Seditions. By the ſame rule *Pharaoh*, *Eglon*, *Nebuchodonoſor*, *Antiochus*, *Herod*, and the like, were Fathers of the *Hebrews*. And without looking far backward, or depending upon the Faith of Hiſtory, we may enumerate many Princes, who in a perpetual care of their People, have not yielded to *Nero* or *Caligula*. If our Author ſay true, all thoſe Actions of theirs, which we have ever attributed to the utmoſt exceſs of Pride, Cruelty, Avarice and Perfidiouſneſs, proceeded from their princely Wiſdom and fatherly Kindneſs to the Nations under 'em: and we are beholden to him for the diſcovery of ſo great a Myſtery, which has bin hid from mankind from the beginning of the World to this day: if not, we may ſtill look upon them as Children of the Devil; and continue to believe, that Princes as well as other Magiſtrats were ſet up by the People for the publick Good; that the Praiſes given to ſuch as are Wiſe, Juſt and Good, are purely perſonal, and can belong only to thoſe, who by a due exerciſe of their Power do deſerve it, and to no others.

CHAP.

CHAP. II.

SECT. I.

That 'tis natural for Nations to govern, or to chuſe Governors; and that Vertue only gives a natural preference of one man above another, or reaſon why one ſhould be choſen rather than another.

IN this Chapter our Author fights valiantly againſt *Bellarmin* and *Suarez*, ſeeming to think himſelf victorious, if he can ſhew that either of them has contradicted the other, or himſelf; but being no way concern'd in them, I ſhall leave their followers to defend their Quarrel: My work is to ſeek after Truth; and, tho they may have ſaid ſome things, in matters not concerning their beloved Cauſe of Popery, that are agreeable to Reaſon, Law, or Scripture, I have little hope of finding it among thoſe who apply themſelves chiefly to School Sophiſtry, as the beſt means to ſupport Idolatry.. That which I maintain, is the Cauſe of Mankind; which ought not to ſuffer, tho Champions of corrupt Principles have weakly defended, or maliciouſly betray'd it: and therefore not at all relying on their Authority, I intend to reject whatſoever they ſay that agrees not with Reaſon, Scripture, or the approv'd Examples of the beſt poliſh'd Nations. He alſo attacks *Plato* and *Ariſtotle*, upon whoſe Opinions I ſet a far greater value, in as much as they ſeem to have penetrated more deeply into the ſecrets of human Nature; and not only to have judg'd more rightly of the Intereſts of Mankind, but alſo to have comprehended in their Writings the Wiſdom of the *Grecians*, with all that they had learn'd from the *Phænicians*, *Egyptians*, and *Hebrews*; which may lead us to the diſcovery of the Truth we ſeek. If this be our work, the queſtion is not, whether it be a *Paradox*, or *a receiv'd Opinion*, *That People naturally govern, or chuſe Governors*; but whether it be true or not: for many Paradoxes are true, and the moſt groſs Errors have often bin moſt common. Tho I hope to prove, that what he calls a Paradox, is not only true; but a Truth planted in the hearts of men, and acknowledg'd ſo to be by all that have hearkned to the voice of Nature, and diſapprov'd by none, but ſuch as thro wickedneſs, ſtupidity, or baſeneſs of Spirit, ſeem to have degenerated into the worſt of beaſts, and to have retain'd nothing of men, but the outward ſhape, or the ability of doing thoſe miſchiefs which they have learn'd from their Maſter the Devil.

We have already ſeen, that the Patriarchical Power reſembles not the Regal in principle or practice: that the beginning and continuance of Regal Power was contrary to, and inconſiſtent with the Patriarchical: that the firſt Fathers of mankind left all their Children independent on each other, and in an equal liberty of providing for themſelves: that every man continu'd in this liberty, till the number ſo increas'd, that they became trou-

CHAP. II.

bleſom and dangerous to each other; and finding no other remedy to the diſorders growing, or like to grow among them, join'd many Familys into one civil Body, that they might the better provide for the conveniency, ſafety, and defence of themſelves and their Children. This was a collation of every man's privat Right into a publick Stock; and no one having any other right than what was common to all, except it were that of Fathers over their Children, they were all equally free when their Fathers were dead; and nothing could induce 'em to join, and leſſen that natural liberty by joining in Societys, but the hopes of a publick Advantage. Such as were wiſe and valiant procur'd it, by ſetting up regular Governments, and placing the beſt Men in the Adminiſtration; whilſt the weakeſt and baſeſt fell under the power of the moſt boiſterous and violent of their Neighbours. Thoſe of the firſt ſort had their root in Wiſdom and Juſtice, and are call'd lawful Kingdoms or Commonwealths; and the Rules by which they are govern'd, are known by the name of Laws. Theſe Governments have ever bin the Nurſes of Vertue: The Nations living under them have flouriſh'd in Peace and Happineſs, or made Wars with Glory and Advantage: whereas the other ſort ſpringing from Violence and Wrong, have ever gone under the odious title of Tyrannys; and by fomenting Vices, like to thoſe from whence they grew, have brought ſhame and miſery upon thoſe who were ſubject to them. This appears ſo plainly in Scripture, that the aſſertors of Liberty want no other Patron than God himſelf; and his Word ſo fully juſtifies what we contend for, that it were not neceſſary to make uſe of human Authority, if our Adverſarys did not oblige us to examin ſuch as are cited by them. This, in our preſent caſe, would be an eaſy work, if our Author had rightly mark'd the paſſages he would make uſe of, or had bin faithful in his Interpretation or Explication of ſuch as he truly cites; but failing groſly in both, 'tis hard to trace him.

He cites the *16th* Chapter of the third Book of *Ariſtotle*'s Politicks, and I do not find there is more than twelve; or tho that Wound might be cur'd, by ſaying the Words are in the twelfth, his Fraud in perverting the Senſe were unpardonable, tho the other miſtake be paſt over. 'Tis true that *Ariſtotle* dos there ſeem to doubt whether there be any ſuch thing as one man naturally a Lord over many Citizens, ſince a City conſiſts of Equals: but in the whole ſcope of that Chapter, Book, and his other Writings, he fully ſhews his doubt did not ariſe from an imagination that one man could naturally inherit a Right of Dominion over many not deſcended from him; or that they were born under a neceſſity of being Slaves to him (for ſuch fancys can proceed only from diſtemper'd Brains) but that Civil Societys aiming at the publick good, thoſe who by nature were endow'd with ſuch Vertues or Talents as were moſt beneficial to them, ought to be prefer'd. And nothing can be more contrary to the frantick whimſy of our Author, who fancys an hereditary Prerogative of Dominion inherent to a perſon as Father of a People, or Heir, or to be reputed Heir of the firſt Father, when 'tis certain he is not, but that either he or his Predeceſſor came in by Election or Uſurpation, than to ſhew that 'tis only Wiſdom, Juſtice, Valour, and other commendable Vertues, which are not hereditary, that can give the preference; and that the only reaſon why it ſhould be given, is, that Men ſo qualify'd can better than others accompliſh the end for which Societys are conſtituted:

Arist. Pol. For *tho*, ſays he, *all are equally free, all are not equally endow'd with thoſe Vertues that render Liberty ſafe, proſperous, and happy.* That equality which

which is juſt among Equals, is juſt only among Equals; but ſuch as are baſe, ignorant, vicious, ſlothful, or cowardly, are not equal in natural or acquir'd Vertues, to the generous, wiſe, valiant, and induſtrious; nor equally uſeful to the Societys in which they live: they cannot therefore have an equal part in the Government of 'em, they cannot equally provide for the common good; and 'tis not a perſonal, but a publick Benefit that is ſought in their conſtitution and continuance. There may be a hundred thouſand men in an Army, who are all equally free; but they only are naturally moſt fit to be Commanders or Leaders, who moſt excel in the Vertues requir'd for the right performance of thoſe Offices; and that, not becauſe 'tis good for them to be rais'd above their Brethren, but becauſe 'tis good for their Brethren to be guided by them, as 'tis ever good to be govern'd by the wiſeſt and the beſt. If the nature of man be Reaſon, *Detur digniori*, in matters of this kind, is the voice of Nature; and it were not only a deviation from Reaſon, but a moſt deſperate and miſchievous madneſs, for a Company going to the *Indies*, to give the guidance of their Ship to the Son of the beſt Pilot in the world, if he want the skill requir'd to that employment, or to one who was maliciouſly ſet to deſtroy them: and he only can have a Right grounded upon the dictates of Nature, to be advanc'd to the Helm, who beſt knows how to govern it, and has given the beſt teſtimonys of his Integrity and Intentions to imploy his skill for the good of thoſe that are imbark'd. But as the work of a Magiſtrat, eſpecially if he be the ſupreme, is the higheſt, nobleſt, and moſt difficult that can be committed to the charge of a man, a more excellent Vertue is requir'd in the Perſon to be advanc'd to it, than for any other; and he that is moſt excellent in that Vertue, is reaſonably and naturally to be prefer'd before any other. *Ariſtotle* having this in his view, ſeems to think, that thoſe who believ'd it not to be natural for one man to be Lord of all the Citizens, ſince a City conſiſts of Equals, had not obſerv'd that inequality of Endowments, Vertues and Abilitys in men, which render ſome more fit than others for the performance of their Dutys, and the Work intended; but it will not be found, as I ſuppoſe, that he did ever dream of a natural Superiority, that any man could ever have in a civil Society, unleſs it be ſuch a ſuperiority in Vertue as moſt conduces to the publick good. SECT. I.

He confirms this in proceeding to examin the different ſorts of Governments, according to the different diſpoſitions of Nations; and is ſo bold to ſay, That a *popular Government is the beſt for a People, who are naturally generous and warlike: that the Government of a few ſutes beſt with thoſe, among whom a few men are found to excel others in thoſe Vertues that are profitable to Societys*; *and that the Government of one is good, when that one dos ſo far ſurpaſs all others in thoſe Vertues, that he has more of them than all the reſt of the people together.* And for the ſame reaſon that induc'd him to believe that equality is juſt amongſt Equals, he concludes inequality of Power to be moſt unjuſt, unleſs there be inequality of Merit; and equality of Power to be ſo alſo, when there is inequality of Vertue, that being the only rule by which every man's part ought to be regulated.

But if it be neither reaſonable nor juſt that thoſe who are not equal in Vertue ſhould be made equal in Power, or that ſuch as are equal in Vertue ſhould be unequal in Power; the moſt brutal and abominable of all extravagancys is to make one or a few, who in Vertue and Abilitys to perform Civil Functions are inferior to others, ſuperior to all in power: and the Miſerys ſuffer'd by thoſe Nations, who, inverting the Laws of Nature

CHAP. II.

ture and Reaſon, have plac'd Children or Men of no Vertue in the Government, when men that excel'd in all Vertues were not wanting, do ſo far manifeſt this Truth, that the pains of proving it may be ſpar'd.

'Tis not neceſſary for me to inquire, whether it be poſſible to find ſuch a Man as *Ariſtotle* calls *Naturâ Regem*; or whether he intended to recommend *Alexander* to the world for the Man deſign'd by God and Nature to be King over all, becauſe no man was equal to him in the Vertues that were beneficial to all. For purſuing my Poſition, that Vertue only can give a juſt and natural preference, I ingenuouſly confeſs, that when ſuch a Man, or race of Men as he deſcribes, ſhall appear in the world, they carry the true marks of Sovereignty upon them: We ought to believe, that God has rais'd 'em above all, whom he has made to excel all: It were an impious folly to think of reducing him to the ordinary level of Mankind, whom God has placed above it. 'Twere better for us to be guided by him, than to follow our own judgment; nay, I could almoſt ſay, 'twere better to ſerve ſuch a Maſter, than to be free. But this will be nothing to the purpoſe, till ſuch a Man, or ſucceſſion of men do appear; and if our Author would perſuade us, that all Mankind, or every particular, is oblig'd to a perpetual ſubjection to one Man or Family, upon any other condition, he muſt do it by the credit of thoſe who favour his Deſign more than *Ariſtotle*.

I know not who that will be, but am confident he will find no help from *Plato*: for if his Principles be examin'd, by which a grave Author's ſenſe is beſt comprehended, it will appear, that all his Books of Laws, and of a Commonwealth, are chiefly grounded upon this, "That Magi-

Plato de Leg. & de Republ.

"ſtrats are choſen by Societys, ſeeking their own good; and that the "beſt men ought to be choſen for the attaining of it: whereas his whole deſign of ſeeking which is the beſt form of Government, or what Laws do moſt conduce to its perfection and permanency, (if one Rule were by nature appointed for all, and none could juſtly tranſgreſs it; if God had deſign'd an univerſal Lord over the whole World, or a particular one over every Nation, who could be bound by no Law) were utterly abſurd; and they who write Books concerning Political matters, and take upon 'em to inſtruct Nations how to govern themſelves, would be found either fooliſhly to miſpend their time, or impiouſly to incite People to rebel againſt the Ordinance of God. If this can juſtly be imputed to *Plato*, he is not the wiſe Man he is ſuppos'd to have bin; and can leſs deſerve the title of Divine, which our Author gives him: but if he remain juſtly free from ſuch Cenſures, it muſt be confeſt, that whilſt he ſeeks what is good for a people, and to convince 'em by reaſon that it is ſo, he takes it for granted, that they have a liberty of chuſing that which appears to be the beſt to them. He firſt ſays, "That this Good conſiſts in the ob-

Plato de Leg.

"taining of Juſtice; but farther explaining himſelf, he ſhews that un-
"der the name of Juſtice, he comprehends all that tends to their perfecti-
"on and felicity: in as much as every People, by joining in a civil Socie-
"ty, and creating Magiſtrats, doth ſeek its own good; and 'tis juſt,
"that he or they who are created, ſhould, to the utmoſt of their power,
"accompliſh the end of their Creation, and lead the People to Juſtice,
"without which there is neither perfection nor happineſs: That the pro-
"per act of Juſtice is to give to every one his due; to Man that which
"belongs to Man, and to God that which is God's. But as no man can
"be juſt, or deſire to be ſo, unleſs he know that Juſtice is good; nor
"know that it is good, unleſs he know that original Juſtice and Good-

"neſs,

" ness, thro which all that is just is just, and all that is good is good, 'tis SECT. I.
" impossible for any man to perform the part of a good Magistrat,
" unless he have the knowledg of God; or to bring a People to Justice,
" unless he bring them to the knowledg of God, who is the Root of all
" Justice and Goodness. If *Plato* therefore deserve credit, he only can duly perform the part of a good Magistrate, whose moral Vertues are ripen'd and heightned by a superinduction of Divine Knowledg. " The
" misery of Man proceeds from his being separated from God: This Se-
" paration is wrought by corruption; his restitution therefore to Felici-
" ty and Integrity, can only be brought about by his reunion to the Good
" from which he is fallen. *Plato* looks upon this as the only worthy Object of Man's desire: and in his Laws and Politicks he intends not to teach us how to erect Manufactures, and to increase Trade or Riches; but how Magistrats may be helpful to Nations in the manner before mention'd, and consequently what men are fit to be Magistrats. If our Author therefore would make use of *Plato*'s Doctrin to his end, he ought to have prov'd that there is a Family in every Nation, to the chief of which, and successively to the next in Blood, God dos ever reveal and infuse such a knowledg of himself, as may render him a Light to others; and failing in this, all that he says is to no purpose.

The weakness in which we are born, renders us unable to attain this Good of our selves: we want help in all things, especially in the greatest. The fierce Barbarity of a loose Multitude, bound by no Law, and regulated by no Disciplin, is wholly repugnant to it: Whilst every Man fears his Neighbour, and has no other defence than his own strength, he must live in that perpetual anxiety which is equally contrary to that happiness, and that sedate temper of mind which is requir'd for the search of it. The first step towards the cure of this pestilent Evil, is for many to join in one body, that every one may be protected by the united force of all, and the various Talents that men possess, may by good disciplin be render'd useful to the whole; as the meanest piece of wood or stone being plac'd by a wise Architect, conduces to the beauty of the most glorious Building. But every man bearing in his own breast *Affections*, Passions, and Vices repugnant to this end, and no man owing any submission to his Neighbour; none will subject the correction or restriction of themselves to another, unless he also submit to the same Rule. They are rough pieces of timber or stone, which 'tis necessary to cleave, saw, or cut: This is the work of a skilful Builder, and he only is capable of erecting a great Fabrick, who is so: Magistrats are Political Architects; and they only can perform the Work incumbent on them, who excel in Political Vertues. Nature, in variously framing the minds of men, according to the variety of Uses in which they may be employ'd, in order to the institution and preservation of Civil Societys, must be our Guide, in allotting to every one his proper work. And *Plato* observing this Variety, affirms, " That the Laws of Nature cannot be more absurdly vio-
" lated, than by giving the Government of a People to such, as do not
" excel others in those Arts and Vertues that tend to the ultimate Ends
" for which Governments are instituted. By this means those who are Slaves by Nature, or render'd so by their Vices, are often set above those that God and Nature had fitted for the highest Commands; and Societys which subsist only by order, fall into corruption, when all Order is so prepostrously inverted, and the most extreme Confusion introduc'd. This is an Evil that *Solomon* detested: *Folly is set in great dignity, and the* Eccl. 10. 7.

†

Rich

CHAP. II. *Rich ſit in low places: I have ſeen Servants upon Horſes, and Princes walking as Servants upon the Earth.* They who underſtand *Solomon*'s Language, will eaſily ſee, that the Rich, and the Princes he means, are ſuch only who are rich in Vertue and Wiſdom, and who ought to be prefer'd for thoſe Qualitys: And when he ſays, a Servant that reigneth is one of the *three things the Earth cannot bear*, he can only mean ſuch as deſerve to be Servants; for when they reign, they do not ſerve, but are ſerv'd by others: Which perfectly agrees with what we learn from *Plato*, and plainly ſhews, that true Philoſophy is perfectly conformable with what is taught us by thoſe who were divinely inſpir'd. Therefore tho I ſhould allow to our Author, that *Ariſtotle*, in thoſe words, *It ſeems to ſome, not to be natural for one Man to be Lord of all the Citizens, ſince the City conſiſts of Equals*, did ſpeak the opinion of others rather than his own; and ſhould confeſs that he and his Maſter *Plato* did acknowledg a natural inequality among men, it would be nothing to his purpoſe: for the Inequality, and the rational Superiority due to ſome, or to one, by reaſon of that Inequality, did not proceed from Blood or Extraction, and had nothing Patriarchical in it; but conſiſted ſolely in the Vertues of the Perſons, by which they were render'd more able than others to perform their Duty, for the good of the Society. Therefore if theſe Authors are to be truſted, whatſoever place a Man is advanc'd to in a City, 'tis not for his own ſake, but for that of the City; and we are not to ask who was his Father, but what are his Vertues in relation to it. This induces a neceſſity of diſtinguiſhing between a ſimple and a relative Inequality; for if it were poſſible for a man to have great Vertues, and yet no way beneficial to the Society of which he is, or to have ſome one Vice that renders 'em uſeleſs, he could have no pretence to a Magiſtratical Power more than any other. They who are equally free, may equally enjoy their freedom; but the Powers that can only be executed by ſuch as are endow'd with great Wiſdom, Juſtice and Valor, can belong to none, nor be rightly confer'd upon any, except ſuch as excel in thoſe Vertues. And if no ſuch can be found, all are equally by turns to participate of the Honors annex'd to Magiſtracy; and Law, which is ſaid to be written Reaſon, cannot juſtly exalt thoſe, whom Nature, which is Reaſon, has depreſt, nor depreſs thoſe whom Nature has exalted. It cannot make Kings Slaves, nor Slaves Kings, without introducing that Evil, which, if we believe *Solomon*, and the Spirit by which he ſpoke, *the Earth cannot bear*. This may diſcover what Lawgivers deſerve to be reputed wiſe or juſt; and what Decrees or Sanctions ought to be reputed Laws. *Ariſtotle* proceeding by this Rule, rather tells us who is naturally a King, than where we ſhould find him; and after having given the higheſt Praiſes to this true natural King and his Government, he ſticks not to declare that of one Man, in Vertue equal or inferior to others, to be a mere Tyranny, even the worſt of all, as it is the corruption of the beſt, (or, as our Author calls it, the moſt Divine) and ſuch as can be fit only for thoſe barbarous and ſtupid Nations, which, tho bearing the ſhape of Men, are little different from Beaſts. Whoever therefore will from *Ariſtotle*'s words infer, that Nature has deſign'd one Man, or ſucceſſion of Men, to be Lords of every Country, muſt ſhew that Man to be endow'd with all the Vertues that render him fit for ſo great an Office, which he dos not bear for his own Pleaſure, Glory or Profit, but for the good of thoſe that are under him; and if that be not done, he muſt look after other Patrons than *Ariſtotle* for his opinion.

†

Plato

Plato dos more explicitly ſay, that the Civil or Politick Man, the Shepherd, Father, or King of the People, is the ſame, deſign'd for the ſame Work, enabled to perform it by the excellency of the ſame Vertues, and made perfect by the infuſion of the divine Wiſdom. This is *Plato*'s Monarch, and I confeſs, that whereſoever he dos appear in the World, he ought to be accounted as ſent from God for the good of that People. His Government is the beſt that can be ſet up among Men; and if aſſurance can be given, that his Children, Heirs or Succeſſors, ſhall for ever be equal to him in the abovemention'd Vertues, it were a folly and a ſin to bring him under the government of any other, or to an equality with them, ſince God had made him to excel them all; and 'tis better for them to be rul'd by him, than to follow their own judgment. This is that which gives him the preference: *He is wiſe thro the knowledg of the Truth, and thereby becomes good, happy, pure, beautiful and perfect. The divine Light ſhining forth in him, is a guide to others; and he is a fit Leader of a People to the good that he enjoys.* If this can be expreſt by words in faſhion, this is his *Prerogative*; this is the *Royal Charter* given to him by God, and to him only, who is ſo adapted for the performance of his Office. He that ſhould pretend to the ſame Privileges, without the ſame Abilitys to perform the Works for which they are granted, would exceed the folly of a Child, that takes upon him a burden which can only be born by a Giant; or the madneſs of one who preſumes to give Phyſick, and underſtands not the Art of a Phyſician, thereby drawing guilt upon himſelf, and death upon his Patient. It were as vain to expect that a Child ſhould carry the Giant's burden, and that an ignorant man ſhould give wholſom Phyſick, as that one who lives void of all knowledg of Good, ſhould conduct men to it. Whenſoever therefore ſuch a Man, as is above-deſcrib'd, dos not appear, Nature and Reaſon inſtruct us to ſeek him or them who are moſt like to him; and to lay ſuch burdens upon 'em as are proportionable to their ſtrength; which is as much as to ſay, to prefer every man according to his merit, and aſſign to every one ſuch Works as he ſeems able to accompliſh.

SECT. 1.

Plato in Alcib. l. 1, 2.

But that *Plato* and *Ariſtotle* may neither be thought unreaſonably addicted to Monarchy; nor, wholly rejecting it, to have talk'd in vain of a Monarch, that is not to be found; 'tis good to conſider that this is not a fiction. *Moſes*, *Joſhua*, *Samuel*, and others, were ſuch as they define; and were made to be ſuch, by that communion with God which *Plato* requires: And he in all his Writings, intending the inſtitution of ſuch a Diſciplin as ſhould render men happy, wiſe and good, could take no better way to bring his Countrymen to it, than by ſhewing 'em that Wiſdom, Vertue, and Purity only could make a natural difference among men.

'Tis not my work to juſtify theſe Opinions of *Plato* and his Scholar *Ariſtotle*: They were men, and, tho wiſe and learned, ſubject to error. If they err'd in theſe Points, it hurts not me, nor the Cauſe I maintain; ſince I make no other uſe of their Books, than to ſhew the impudence and prevarication of thoſe, who gather ſmall ſcraps out of good Books, to juſtify their Aſſertions concerning ſuch Kings as are known amongſt us; which being examin'd, are found to be wholly againſt 'em; and if they were follow'd, would deſtroy their Perſons and Power.

But our Author's intention being only to cavil, or to cheat ſuch as are not vers'd in the Writings of the Antients, or at leaſt to cauſe thoſe who do not make Truth their Guide, to waver and fluctuate in their Diſcourſes,

CHAP. II. he dos in one page ſay, *That without doubt* Moſes *his Hiſtory of the Creation guided theſe Philoſophers in finding out this lineal Subjection.* And in the next affirms, *That the Ignorance of the Creation occaſion'd ſeveral among the Heathen Philoſophers to think that men met together as herds of Cattel.* Whereas they could not have bin ignorant of the Creation, if they had read the Books that *Moſes* writ; and having that knowledg, they could not think that men met together as herds of Cattel. However, I deny that any of 'em did ever dream of that lineal Subjection, deriv'd from the firſt Parents of mankind, or that any ſuch thing was to be learn'd from *Moſes*. Tho they did not perhaps juſtly know the beginning of Mankind, they did know the beginnings and progreſs of the Governments under which they liv'd: and being aſſur'd that the firſt Kingdoms had bin thoſe, which they call'd *Heroum Regna*, that is, of thoſe who had bin moſt beneficial to Mankind; that their Deſcendents in many places degenerating from their Vertues, had given Nations occaſion to ſet up *Ariſtocracys*; and they alſo falling into corruption, to inſtitute *Democracys*, or mix'd Governments; did rightly conclude, That every Nation might juſtly order their own Affairs according to their own pleaſure, and could have neither obligation nor reaſon to ſet up one man or a few above others, unleſs it did appear to them that they had more of thoſe Vertues which conduce to the good of Civil Societys, than the reſt of their Brethren.

Our Author's cavil upon *Ariſtotle*'s Opinion, *That thoſe who are wiſe in mind are by nature fitted to be Lords, and thoſe who are ſtrong of body ordain'd to obey*, deſerves no anſwer; for he plainly falſifies the Text. *Ariſtotle* ſpeaks only of thoſe Qualitys which are requir'd for every purpoſe; and means no more, than that ſuch as are eminent in the Virtues of the mind deſerve to govern, tho they do not excel in bodily ſtrength; and that they who are ſtrong of body, tho of little underſtanding, and uncapable of commanding, may be uſeful in executing the commands of others: But is ſo far from denying that one man may excel in all the perfections of mind and body, that he acknowledges him only to be a King by nature who dos ſo, both being requir'd for the full performance of his Duty. And if this be not true, I ſuppoſe that one who is like *Agrippa Poſthumus*, *Corporis viribus ſtolidè ferox*, may be fit to govern many Nations; and *Moſes* or *Samuel*, if they naturally wanted bodily ſtrength, or that it decay'd by age, might juſtly be made Slaves, which it a diſcovery worthy our Author's invention.

SECT. II.

Every Man that has Children, has the right of a Father, and is capable of preferment in a Society compos'd of many.

I Am not concern'd in making good what *Suarez* ſays: A Jeſuit may ſpeak that which is true; but it ought to be receiv'd, as from the Devil, cautiouſly, leſt miſchief be hid under it: and Sir *Robert*'s frequent prevarications upon the Scripture, and many good Authors, give reaſon to ſuſpect he may have falſify'd one, that few Proteſtants read, if it ſerv'd to his purpoſe; and not mentioning the place, his fraud cannot eaſily be diſcover'd, unleſs it be by one who has leiſure to examin all his vaſtly voluminous Writings. But as to the point in queſtion, that pains

may

may be ſav'd; there is nothing that can be imputed to the invention of *Suarez*; for, *that* Adam *had only an Oeconomical, not a Political Power*, is not the voice of a Jeſuit, but of Nature and common Senſe: for Politick ſignifying no more in Greek, than Civil in Latin; 'tis evident there could be no Civil Power, where there was no Civil Society; and there could be none between him and his Children, becauſe a Civil Society is compos'd of Equals, and fortify'd by mutual compacts, which could not be between him and his Children, at leaſt if there be any thing of truth in our Author's Doctrin, *That all Children do perpetually and abſolutely depend upon the Will of their Father.* *Suarez* ſeems to have bin of another opinion; and obſerving the benefits we receive from Parents, and the Veneration we owe to 'em to be reciprocal, he could not think any Duty could extend farther than the knowledg of the Relation upon which it was grounded; and makes a difference between the Power of a Father, before and after his Children are made free; that is in truth, before and after they are able to provide for themſelves, and to deliver their Parents from the burden of taking care of them. Which will appear rational to any who are able to diſtinguiſh between what a Man of 50 years old, ſubſiſting by himſelf, and having a Family of his own, or a Child of eight, dos owe to his Father: The ſame reaſon that obliges a Child to ſubmit intirely to the Will of his Parents, when he is utterly ignorant of all things, dos permit, and often enjoin men of ripe age to examin the Commands they receive before they obey them; and 'tis not more plain that I owe all manner of duty, affection, and reſpect to him that did beget and educate me, than that I can owe nothing on any ſuch account to one that did neither. SECT. 2.

This may have bin the opinion of *Suarez:* but I can hardly believe ſuch a notion, as, *that* Adam *in proceſs of time might have Servants*, could proceed from any other brain than our Author's: for if he had liv'd to this day, he could have had none under him but his own Children; and if a Family be not compleat without Servants, his muſt always have bin defective; and his Kingdom muſt have bin ſo too, if that has ſuch a reſemblance to a Family as our Author fancies. This is evident, that a hard Father may uſe his Children as Servants, or a rebellious, ſtubborn Son may deſerve to be ſo us'd; and a gentle and good Maſter may ſhew that kindneſs to faithful and well-deſerving Servants, which reſembles the ſweetneſs of a fatherly rule: but neither of 'em can change their nature; a Son can never grow to be a Servant, nor a Servant to be a Son. If a Family therefore be not compleat, unleſs it conſiſt of Children and Servants, it cannot be like to a Kingdom or City, which is compos'd of Freemen and Equals: Servants may be in it, but are not Members of it. As Truth can never be repugnant to Juſtice, 'tis impoſſible this ſhould be a prejudice to the paternal Rule, which is moſt juſt; eſpecially when a grateful remembrance of the benefits receiv'd, dos ſtill remain, with a neceſſary and perpetual obligation of repaying them in all affection and duty: whereas the care of ever providing for their Familys, as they did probably increaſe in the time of our firſt long-living Fathers, would have bin an inſupportable burden to Parents, if it had bin incumbent on 'em. We do not find that *Adam* exercis'd any ſuch power over *Cain*, when he had ſlain *Abel*, as our Author fancies to be Regal: The Murderer went out, and built a City for himſelf, and call'd it by the name of his firſt-born. And we have not the leaſt reſon to believe, that after *Adam*'s death *Cain* had any Dominion over his Brethren, or their Poſterity; or any one of them over him and his. He fear'd that whoſo-

CHAP. II. ever ſaw him would kill him, which language dos not agree with the Rights belonging to the haughty Title of Heir apparent to the Dominion of the whole Earth. The like was practis'd by *Noah* and his Sons, who ſet up Colonys for themſelves; but liv'd as privat men in obſcure places, whilſt their Children of the fourth or fifth Generation, eſpecially of the youngeſt and accurſed Son, were great and powerful Kings, as is fully prov'd in the firſt Chapter.

Tho this had bin otherwiſe, it would have no effect upon us; for no argument drawn from the examples of *Shem*, *Ham*, and *Japhet*, if they and their Children had continu'd under the Dominion of *Noah* as long as he liv'd, can oblige me to reſign my ſelf and all my concernments abſolutely into the hands of one who is not my Father. But when the contrary is evidently true in them, and their next enſuing Generations, 'tis an admirable boldneſs in our Author to think of impoſing upon us for an eternal and univerſal Law (when the knowledg of our firſt Progenitors is utterly extinguiſh'd) that which was not at all regarded by thoſe, who could not be ignorant of their own Original, or the Duty thereby incumbent upon them, or their immediate Fathers then living, to whom the Rights muſt have belong'd, if there had bin any ſuch thing in nature, or that they had bin of any advantage to them: whereas in truth, if there had bin ſuch a Law in the beginning, it muſt have vaniſh'd of it ſelf, for want of being exercis'd in the beginning, and could not poſſibly be reviv'd after four thouſand years, when no man in the world can poſſibly know to whom the univerſal right of Dominion over the whole World or particular Nations dos belong; for 'tis in vain to ſpeak of a Right, when no one man can have a better Title to it than any other. But there being no precept in the Scripture for it, and the examples directed or approv'd by God himſelf and his moſt faithful Servants, being inconſiſtent with, and contrary to it, we may be ſure there never was any ſuch thing; and that men being left to the free uſe of their own underſtanding, may order and diſpoſe of their own Affairs as they think fit: No man can have a better title than another, unleſs for his perſonal Vertues; every man that in the judgment of thoſe concern'd excels in them, may be advanc'd: and thoſe Nations that thro miſtake ſet up ſuch as are unworthy, or do not take right meaſures in providing for a ſucceſſion of men worthy, and other things neceſſary to their welfare, may be guilty of great folly, to their own ſhame and miſery; but can do no injuſtice to any in relation to an hereditary Right, which can be naturally in none.

SECT. III.

Government is not inſtituted for the good of the Governor, but of the Governed; and Power is not an Advantage, but a Burden.

THE Follys with which our Author endeavours to corrupt and trouble the World, ſeem to proceed from his fundamental miſtakes of the Ends for which Governments are conſtituted; and from an Opinion, that an exceſſive Power is good for the Governor, or the diminution of it a prejudice: whereas common ſenſe teaches, and all good men acknowledg, that Governments are not ſet up for the Advantage, Profit, Pleaſure or Glory of one or a few men, but for the good of the Society. For this

this reaſon *Plato* and *Ariſtotle* find no more certain way of diſtinguiſhing SECT. 3.
" between a lawful King and a Tyrant, than that the firſt ſeeks to pro-
" cure the common Good, and the other his own Pleaſure or Profit;
" and doubt not to declare, That he who according to his Inſtitution was
" the firſt, deſtroys his own being, and degenerates into the latter, if he
" deflect from that rule: He that was the beſt of Men, becomes the
" worſt; and the Father or Shepherd of the People makes himſelf their
" Enemy. And we may from hence collect, that in all Controverſys concerning the Power of Magiſtrats, we are not to examin what conduces to their Profit or Glory, but what is good for the Publick.

His ſecond Error is no leſs groſs and miſchievous than the firſt; and that abſolute Power to which he would exalt the chief Magiſtrate, would be burdenſom, and deſperately dangerous if he had it. The higheſt Places are always ſlippery: Mens eyes dazle when they are carried up to them; and all falls from them are mortal. Few Kings or Tyrants, ſays * *Juvenal*, go down to the Grave in peace; and he did not imprudently couple them together, becauſe in his time few or no Kings were known who were not Tyrants. *Dionyſius* thought no man left a Tyranny, till he was drawn out by the heels. But *Tacitus* ſays, *Neſcit quam grave & intolerandum ſit cuncta regendi onus.* *Moſes* could not bear it: *Gideon* would not accept of any Reſemblance of it. The moral ſenſe of *Jotham*'s wiſe Parable is eternal: The Bramble coveted the Power, which the Vine, Olive and Figtree refus'd. The worſt and baſeſt of men are ambitious of the higheſt places, which the beſt and wiſeſt reject; or if ſome, who may be otherwiſe well qualify'd——

[In this place two pages are wanting in the Original Manuſcript.]

——as the fitteſt to be follow'd by Mankind. If theſe Philoſophers and Divines deſerve credit, *Nimrod*, *Ninus*, *Pharaoh*, and the reſt of that accurſed Crew, did not commit ſuch exceſſes as were condemn'd by God, and abhor'd by good Men; but gaining to themſelves the glorious Character of his Vicegerents, left their practices as a perpetual Law to all ſucceeding Generations; whereby the world, and every part of it, would be for ever expos'd to the violence, cruelty and madneſs of the moſt wicked men that it ſhould produce. But if theſe Opinions comprehend an extravagancy of wickedneſs and madneſs, that was not known among men, till ſome of theſe Wretches preſum'd to attempt the increaſe of that corruption under which Mankind groans, by adding fuel to the worſt of all Vices; we may ſafely return to our Propoſitions, That God having eſtabliſh'd no ſuch Authority as our Author fancies, Nations are left to the uſe of their own Judgment, in making proviſion for their own Welfare: That there is no lawful Magiſtrate over any of them, but ſuch as they have ſet up; that in creating them, they do not ſeek the advantage of their Magiſtrate, but their own: And having found that an abſolute Power over a People, is a burden which no man can bear; and that no wiſe or good Man ever deſir'd it; from thence conclude, that it is not good for any to have it, nor juſt for any to affect it, tho it were perſonally good for himſelf; becauſe he is not exalted to ſeek his own good, but that of the Publick.

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* ——Sine cæde & ſanguine pauci
Deſcendunt reges, & ſicca morte Tyranni. *Juven. Sat.*

SECT.

SECT. IV.

The Paternal Right devolves to, and is inherited by all the Children.

THO the perverſity of our Author's Judgment and Nature may have driven him into the moſt groſs Errors, 'tis not amiſs to obſerve, that many of thoſe deliver'd by him, proceed from his ignorance of the moſt important Differences between Father and Lord, King and Tyrant; which are ſo evident and irreconcilable, that one would have thought no man could be ſo ſtupid, as not to ſee it impoſſible for one and the ſame man, at the ſame time, to be Father and Maſter, King and Tyrant, over the ſame Perſons. But leſt he ſhould think me too ſcrupulous, or too ſtrict in inquiring after Truth, I intend for the preſent to wave that inquiry, and to ſeek what was good for *Adam* or *Noah:* What we have reaſon to believe they deſir'd to tranſmit to their Poſterity, and to take it for a perpetual Law in its utmoſt extent; which I think will be of no advantage to our Author: for this Authority, which was univerſal during their lives, muſt neceſſarily after their deceaſe be divided, as an Inheritance, into as many parcels as they had Children. The Apoſtle ſays, *If Children, then Heirs, Heirs of God, and joint Heirs with Chriſt*; which alluding to the Laws and Cuſtoms of Nations, could have bin of no force, unleſs it had bin true and known to be ſo. But if Children are Heirs, or joint Heirs, whatſoever Authority *Adam* or *Noah* had, is inherited by every man in the world; and that title of Heir which our Author ſo much magnifys, as if annex'd to one ſingle perſon, vaniſhes into nothing; or elſe the words of the Apoſtle could have neither ſtrength nor truth in them, but would be built upon a falſe Foundation, which may perhaps agree with our Author's Divinity.

Rom. 8. 19.

Yet if the Apoſtle had not declar'd himſelf ſo fully in this Point, we might eaſily have ſeen that *Adam* and *Noah* did leave their Children in that equality; for Fathers are ever underſtood to embrace all their Children with equal Affection, till the diſcovery of perſonal Vertues or Vices makes a difference. But the perſonal Vertues, that give a reaſonable preference of one before another, or make him more fit to govern than the others, cannot appear before he is, nor can be annex'd to any one Line: Therefore the Father cannot be thought to have given to one Man, or his Deſcendents, the Government of his Brethren and their Deſcendents.

Beſides, tho the Law of *England* may make one man to be ſole Heir of his Father, yet the Laws of God and Nature do not ſo. All the Children of *Noah* were his Heirs: The Land promis'd to *Abraham*, *Iſaac*, and *Jacob*, was equally divided among their Children. If the Children of *Joſeph* made two Tribes, it was not as the firſt-born, but by the Will of *Jacob*, who adopted *Ephraim* and *Manaſſeh*; and they thereby became his Sons, and obtain'd an Inheritance equal to that of the other Tribes. The Law allow'd a double Portion to the firſt begotten; but this made a difference between Brothers only in *proportion*, whereas that between Lord and Servant is in *ſpecie*, not in degree. And if our Author's Opinion might take place, inſtead of ſuch a diviſion of the common

Inheritance between Brothers, as was made between the Children of *Jacob*, all muſt continue for ever Slaves to one Lord; which would eſtabliſh a difference in *ſpecie* between Brethren, which Nature abhors. SECT. 4.

If Nature dos not make one man Lord over his Brethren, he can never come to be their Lord, unleſs they make him ſo, or he ſubdue them. If he ſubdue them, it is an act of Violence, contrary to Right, which may conſequently be recover'd: If they make him Lord, 'tis for their own ſakes, not for his; and he muſt ſeek their good, not his own, leſt, as *Ariſtotle* ſays, he degenerat from a King into a Tyrant. He therefore who would perſuade us, that the Dominion over every Nation dos naturally belong to one Man, Woman or Child, at a venture; or to the Heir, whatſoever he or ſhe be, as to Age, Sex, or other Qualifications, muſt prove it good for all Nations to be under them. But as Reaſon is our Nature, that can never be natural to us that is not rational. Reaſon gives *Paria paribus*, equal Power to thoſe who have equal Abilitys and Merit: It allots to every one the part he is moſt fit to perform; and this fitneſs muſt be equally laſting with the Law that allots it. But as it can never be good for great Nations, having men amongſt 'em of Vertue, Experience, Wiſdom and Goodneſs, to be govern'd by Children, Fools, or vicious and wicked Perſons; and we neither find that the Vertues requir'd in ſuch as deſerve to govern them, did ever continue in any race of men, nor have reaſon to believe they ever will, it can never be reaſonable to annex the Dominion of a Nation to any one Line. We may take this upon *Solomon*'s word, *Wo to thee, O Land, when thy King is a Child, and thy Princes eat in the morning!* Eccl. 10. 16. And I wiſh the experience of all Ages did not make this Truth too evident to us. This therefore can never be the Work, much leſs the Law of Nature; and if there be any ſuch thing in the world, as the Dominion over a Nation inſeparably united to a Man and his Family, it can have no other Root than a civil or municipal Law, which is not the ſubject of our Diſcourſe.

Moreover, every Father's Right muſt ceaſe, when he ceaſes to be; or be tranſmitted to thoſe, who, being alſo Fathers, have the ſame Title to it. And tho the contrary method of annexing the whole Inheritance to one Perſon, or expoſing all his Brethren to be deſtroy'd by his rage if they will not ſubmit, may conduce to the enlargement of a proud and violent Empire, as in *Turky*; where he that gains the Power, uſually begins his Reign with the ſlaughter of his Brothers and Nephews: yet it can never agree with the piety, gentleneſs and wiſdom of the Patriarchs, or the Laws of God and Nature.

Theſe thing being agreed, we need not trouble our ſelves with the Limits or Definition of a Family, and as little with the Titles given to the Head of it: 'Tis all one to us, whether it be confin'd to one Roof and Fire, or extended farther; and none but ſuch as are ſtrangers to the practice of mankind, can think that titles of Civility have a power to create a right of Dominion. Every man in Latin is call'd *Dominus*, unleſs ſuch as are of the vileſt condition, or in a great ſubjection to thoſe who ſpeak to them; and yet the word ſtrictly taken, relates only to *Servus*, for a Man is Lord only of his Servant or Slave. The *Italians* are not leſs liberal of the Titles of *Signore* and *Padrone*, and the *Spaniards* of *Sennor*; but he would be ridiculous in thoſe Countrys, who thereupon ſhould arrogate to himſelf a right of Dominion over thoſe who are ſo civil. The vanity of our Age ſeems to carry this Point a little higher, eſpecially among the *French*, who put a great weight upon the word *Prince*; but they

CHAP. II. they cannot change the true ſignification of it; and even in their ſenſe, *Prince du Sang* ſignifys no more than a chief Man of the Royal Blood, to whom they pay much reſpect, becauſe he may come to the Crown; as they at *Rome* do to Cardinals, who have the Power of chuſing Popes, and out of whoſe number, for ſome Ages, they have bin choſen. In this ſenſe did *Scevola*, when he was apprehended by *Porſenna*, ſay, *Trecenti conjuravimus Romanæ juventutis Principes*; which was never otherwiſe underſtood, than of ſuch young Citizens as were remarkable amongſt their Companions. And nothing can be more abſurd than to think, if the name of Prince had carried an abſolute and deſpotical Power with it, that it could belong to three hundred in a City, that poſſeſt no more than a ten miles territory; or that it could have bin given to them, whilſt they were young, and the moſt part of their Fathers, as is moſt probable, ſtill living.

T. Liv. l. 2.

I ſhould, like our Author, run round in a Circle, if I ſhould refute what he ſays of a Regal Power in our firſt Parents; or ſhew, that the Regal, where it is, is not abſolute as often as he dos aſſert it. But having already prov'd, that *Adam*, *Noah*, *Abraham*, *Iſaac*, *Jacob*, &c. enjoy'd no ſuch Power; tranſmitted to every one of their Sons that which they had, and they became Fathers of many great Nations, who always continu'd independent on each other; I leave to our Author to prove, when and by what Law the Right of ſubdividing the Paternal Power was ſtop'd, and how any one or more of their Deſcendents came to have that Power over their Brethren, which none of their immediate Children had over theirs.

His queſtion to *Suarez*, how and when Sons become free, ſavours more of Jeſuitical Sophiſtry, than any thing ſaid by the Jeſuit; but the Solution is eaſy: for if he mean the reſpect, veneration and kindneſs proceeding from gratitude, it ceaſes only with the Life of the Father to whom it is due, and the memory of it muſt laſt as long as that of the Son; and if they had bin poſſeſt of ſuch an abſolute Power as he fancys, it muſt have ceas'd with the reaſons upon which it was grounded.

Firſt, Becauſe the Power, of which a Father would probably have made a wiſe and gentle uſe, could not be rightly truſted in the hands of one who is not a Father; and that which tended only to the preſervation of all the Children, could not be turn'd to the increaſe of the Pride, Luxury and Violence of one, to the oppreſſion of others who are equally Heirs.

In the ſecond place, Societys cannot be inſtituted, unleſs the Heads of the Familys that are to compoſe them, reſign ſo much of their Right as ſeems convenient into the publick Stock, to which every one becomes ſubject: But that the ſame Power ſhould, at the ſame time, continue in the true Father, and the figurative Father, the Magiſtrate; and that the Children ſhould owe intire Obedience to the Commands of both, which may often croſs each other, is abſurd.

Thirdly, It ceaſes when it cannot be executed; as when men live to ſee four or five Generations, as many do at this day; becauſe the Son cannot tell whether he ſhould obey his Father, Grandfather, or Great-Grandfather, and cannot be equally ſubject to them all; moſt eſpecially, when they live in divers places, and ſet up Familys of their own, as the Sons of the Patriarchs did: which being obſerv'd, I know no place where this Paternal Power could have any effect, unleſs in the fabulous Iſland of *Pines*; and even there it muſt have ceas'd, when he died, who,

by

by the Inventor of the ſtory, is ſaid to have ſeen above ten thouſand Perſons iſſued of his body. SECT. 5.

And if it be ſaid, that *Noah*, *Shem*, *Abraham*, &c. conſented that their Children ſhould go where they thought fit, and provide for themſelves; I anſwer, that the like has bin done in all Ages, and muſt be done for ever. 'Tis the Voice of Nature, obey'd not only by Mankind, but by all living Creatures; and there is none ſo ſtupid as not to underſtand it. A Hen leaves her Chickens, when they can ſeek their own nouriſhment: A Cow looks after her Calf no longer, than till it is able to feed: A Lion gives over hunting for his Whelps, when they are able to ſeek their own Prey, and have ſtrength enough to provide what is ſufficient for themſelves. And the contrary would be an inſupportable burden to all living Creatures, but eſpecially to Men; for the good order that the rational Nature delights in, would be overthrown, and Civil Societys, by which it is beſt preſerv'd, would never be eſtabliſh'd.

We are not concern'd to examin, Whether the Political and Oeconomical Powers be intirely the ſame, or in what they differ: for that abſolute Power which he contends for, is purely deſpotical, different from both, or rather inconſiſtent with either as to the ſame Subject; and that which the Patriarchs exercis'd, having bin equally inherited by their Children, and conſequently by every one of their Poſterity, 'tis as much as is requir'd for my purpoſe of proving the natural, univerſal Liberty of Mankind; and I am no way concern'd in the Queſtion, Whether the firſt Parents of Mankind had a Power of Life and Death over their Children, or not.

SECT. V.

Freemen join together and frame greater or leſſer Societys, and give ſuch Forms to them as beſt pleaſe themſelves.

THis being eſtabliſh'd, I ſhall leave *Filmer* to fight againſt *Suarez* and *Bellarmin*; or to turn one of them againſt the other, without any concernment in the Combat, or the ſucceſs of it. But ſince he thereupon raiſes a Queſtion, *Whether the ſupreme Power be ſo in the People, that there is but one and the ſame Power in all the People of the World; ſo that no Power can be granted, unleſs all Men upon the Earth meet, and agree to chuſe a Governor:* I think it deſerves to be anſwer'd, and might do it by propoſing a Queſtion to him; Whether in his opinion, the Empire of the whole World dos, by the Laws of God and Nature, belong to one Man, and who that Man is? Or, how it came ſo to be divided, as we have ever known it to have bin, without ſuch an injury to the Univerſal Monarch, as can never be repair'd? But intending to proceed more candidly, and not to trouble my ſelf with *Bellarmin* or *Suarez*, I ſay, that they who place the Power in a Multitude, underſtand a Multitude compos'd of Freemen, who think it for their convenience to join together, and to eſtabliſh ſuch Laws and Rules as they oblige themſelves to obſerve: which Multitude, whether it be great or ſmall, has the ſame Right, becauſe ten Men are as free as ten Millions of Men; and tho it may be more prudent in ſome caſes to join with the greater than the ſmaller number, becauſe there is more ſtrength, it is not ſo always: But however, every Man muſt there-

CHAP. II.

in be his own judg, ſince if he miſtake, the hurt is only to himſelf; and the ten may as juſtly reſolve to live together, frame a Civil Society, and oblige themſelves to Laws, as the greateſt number of Men that ever met together in the World.

Thus we find that a few Men aſſembling together upon the Banks of the *Tiber*, reſolv'd to build a City, and ſet up a Government among themſelves: And the Multitude that met at *Babylon*, when their deſign of building a Tower that ſhould reach up to Heaven fail'd, and their Language was confounded, divided themſelves, as our Author ſays, into ſeventy two parcels, and by the ſame Right might have divided into more, as their Deſcendents did into almoſt an infinite number before the death of their common Father *Noah*. But we cannot find a more perfect Picture of Freemen, living according to their own Will, than in *Abraham* and *Lot*; they went together into *Canaan*, continu'd together as long as was convenient for them, and parted when their Subſtance did ſo increaſe, that they became troubleſom to each other. In the like manner *Iſmael*, *Iſaac*, and *Abraham*'s ſix Sons by *Keturah*, might have continu'd together and made one Nation; *Iſaac* and *Eſau*, *Moab* and *Ammon*, might have done ſo too; or all of them that came of the ſame Stock might have united together; but they did not: And their Deſcendents by the ſame rule might have ſubdivided perpetually, if they had thought it expedient for themſelves: and if the Sons of *Jacob* did not do the like, 'tis probable they were kept together by the hope of an Inheritance promis'd to 'em by God, in which we find no ſhadow of a deſpotical Dominion, affected by one as Father or Heir to the firſt Father, or reputed to be the Heir; but all continu'd in that fraternal equality, which according to *Abraham*'s words to *Lot* they ought to do. There was no Lord, Slave or Vaſſal; no ſtrife was to be among them: They were Brethren; they might live together, or ſeparate, as they found it convenient for themſelves. By the ſame Law that *Abraham* and *Lot*, *Moab* and *Ammon*, *Iſmael*, *Iſaac*, and the Sons of *Keturah*, *Jacob*, *Eſau*, and their Deſcendents, did divide and ſet up ſeveral Governments, every one of their Children might have done the like: and the ſame Right remain'd to their Iſſue, till they had by agreement engag'd themſelves to each other. But if they had no dependence upon each other, and might live together in that fraternal equality which was between *Abraham* and *Lot*; or ſeparate, and continue in that ſeparation, or reunite; they could not but have a right of framing ſuch conditions of their union as beſt pleas'd themſelves. By this means every number of Men, agreeing together and framing a Society, became a compleat Body, having all Power in themſelves over themſelves, ſubject to no other human Law than their own. All thoſe that compoſe the Society, being equally free to enter into it or not, no Man could have any Prerogative above others, unleſs it were granted by the conſent of the whole: and nothing obliging them to enter into this Society, but the conſideration of their own Good; that Good, or the opinion of it, muſt have bin the Rule, Motive and End of all that they did ordain. 'Tis lawful therefore for any ſuch Bodys to ſet up one, or a few Men to govern them, or to retain the Power in themſelves; and he or they who are ſet up, having no other Power but what is ſo confer'd upon them by that Multitude, whether great or ſmall, are truly by them made what they are; and by the Law of their own Creation, are to exerciſe thoſe Powers according to the proportion, and to the ends for which they were given.

Gen. 13.

Theſe Rights, in ſeveral Nations and Ages, have bin variouſly execu- SECT. 5.
ted, in the eſtabliſhment of *Monarchys*, *Ariſtocracys*, *Democracys*, or *mix'd Governments*, according to the variety of Circumſtances; and the Governments have bin good or evil, according to the rectitude or pravity of their Inſtitution, and the vertue and wiſdom, or the folly and vices of thoſe to whom the Power was committed: but the end which was ever propos'd, being the good of the Publick, they only perform'd their duty, who procur'd it according to the Laws of the Society, which were equally valid as to their own Magiſtrats, whether they were few or many.

This might ſuffice to anſwer our Author's Queſtion; but he endeavours further to perplex it, by a fiction of his own brain, *That God gave this Power to the whole Multitude met, and not to every particular Aſſembly of Men:* And expects a proof, *That the whole Multitude met, and divided this Power which God gave them in groſs, by breaking it into parcels, and by appointing a diſtinct Power to each Commonwealth.* He alſo fathers it upon the Aſſertors of Liberty; *and dos not ſee,* as he ſays, *how there can be an Election of a Magiſtrate by any Commonwealth, that is not an Uſurpation upon the Privilege of the whole World, unleſs all Mankind had met together, and divided the Power into parcels which God had given them in groſs.* But before I put my ſelf to the trouble of anſwering that which is but an Appendix to a whimſy of his own, I may juſtly ask, What hurt he finds in Uſurpation, who aſſerts, that the ſame Obedience is due to all Monarchs, whether they come in by Inheritance, Election or Uſurpation? If Uſurpation can give a Right to a Monarch, why dos it not confer the ſame upon a People? Or rather, if God did in groſs confer ſuch a Right upon all Mankind, and they neither did, nor can meet together by conſent to diſpoſe of it for the good of the whole; why ſhould not thoſe who can, and do conſent to meet together, agree upon that which ſeems moſt expedient to them for the Government of themſelves? Did God create Man under the neceſſity of wanting Government, and all the good that proceeds from it; becauſe at the firſt all did not, and afterwards all could not meet to agree upon Rules? Or did he ever declare, that unleſs they ſhould uſe the firſt opportunity of dividing themſelves into ſuch parcels as were to remain unalterable, the right of reigning over every one ſhall fall to the firſt Villain that ſhould dare to attempt it? Is it not more conſonant to the Wiſdom and Goodneſs of God, to leave to every Nation a liberty of repairing the Miſchiefs fallen upon them thro the omiſſion of their firſt Parents, by ſetting up Governments among themſelves, than to lay 'em under a neceſſity of ſubmitting to any that ſhould inſolently aſpire to a Domination over them? Is it not more juſt and reaſonable to believe, that the univerſal Right not being executed, devolves upon particular Nations, as Members of the great Body, than that it ſhould become the reward of Violence or Fraud? Or is it poſſible that any one Man can make himſelf Lord of a People, or parcel of that Body, to whom God had given the liberty of governing themſelves, by any other means than Violence or Fraud, unleſs they did willingly ſubmit to him? If this Right be not devolv'd upon any one Man, is not the invaſion of it the moſt outrageous Injury that can be done to all Mankind, and moſt particularly to the Nation that is enſlav'd by it? Or if the Juſtice of every Government depends neceſſarily upon an original Grant, and a Succeſſion certainly deduc'd from our firſt Fathers, dos not he by his own Principles condemn all the Monarchys of the World, as the moſt deteſtable Uſurpations, ſince not one of 'em that we know do any way pretend to it? Or, tho I, who deny

CHAP. II.

any Power to be juſt that is not founded upon Conſent, may boldly blame Uſurpation; is it not an abſurd and unpardonable impudence in *Filmer*, to condemn Uſurpation in a People, when he has declar'd that the Right and Power of a Father may be gain'd by Uſurpation; and that Nations in their Obedience are to regard the Power, not the Means by which it was gain'd? But not to loſe more time upon a moſt frivolous fiction, I affirm, that the Liberty which we contend for is granted by God to every Man in his own Perſon, in ſuch a manner as may be uſeful to him and his Poſterity, and as it was exercis'd by *Noah*, *Shem*, *Abraham*, *Iſaac*, *Jacob*, &c. and their Children, as has bin prov'd, and not to the vaſt Body of all Mankind, which never did meet together ſince the firſt Age after the Flood, and never could meet to receive any benefit by it.

His next Queſtion deſerves ſcorn and hatred, with all the effects of either, if it proceed from malice; tho perhaps he may deſerve compaſſion, if his Crime proceed from ignorance: *Was a general Meeting of a whole Kingdom*, ſays he, *ever known for the Election of a Prince?* But if there never were any general Meetings of whole Nations, or of ſuch as they did delegate and entruſt with the Power of the whole, how did any Man that was elected come to have a Power over the whole? Why may not a People meet to chuſe a Prince, as well as any other Magiſtrate? Why might not the *Athenians*, *Romans*, or *Carthaginians*, have choſen Princes as well as Archons, Conſuls, Dictators or Suffetes, if it had pleas'd them? Who choſe all the *Roman* Kings, except *Tarquin* the proud, if the People did not; ſince their Hiſtorys teſtify, that he was the firſt who took upon him to reign *ſine juſſu populi?* Who ever heard of a King of the *Goths* in *Spain*, that was not choſen by the Nobility and People? Or, how could they chuſe him, if they did not meet in their Perſons, or by their Deputys, which is the ſame thing, when a People has agreed it ſhould be ſo? How did the Kings of *Sweden* come by their Power, unleſs by the like Election, till the Crown was made hereditary, in the time of *Guſtavus* the Firſt, as a Reward of his Vertue and Service, in delivering that Country from the Tyranny of the *Danes?* How did *Charles Guſtavus* come to be King, unleſs it was by the Election of the Nobility? He acknowledg'd by the Act of his Election, and upon all occaſions, that he had no other right to the Crown than what they had confer'd on him. Did not the like Cuſtom prevail in *Hungary* and *Bohemia*, till thoſe Countrys fell under the Power of the Houſe of *Auſtria?* and in *Denmark* till the Year 1660? Do not the Kings of *Poland* derive their Authority from this popular Election, which he derides? Dos not the ſtile of the Oath of Allegiance us'd in the Kingdom of *Arragon*, as it is related by *Antonio Perez* Secretary of State to *Philip* 2*d*, ſhew, that their Kings were of their own making? Could they ſay, * *We who are as good as you, make you our King, on condition that you keep and obſerve our Privileges and Libertys; and if not, not*; if he did not come in by their Election? Were not the *Roman* Emperors, in diſorderly times, choſen by the Soldiers; and in ſuch as were more regular, by the Senate, with the conſent of the People?

T. Liv. l. 1.

Our Author may ſay, the whole Body of theſe Nations did not meet at their Elections; tho that is not always true, for in the Infancy of *Rome*, when the whole People dwelt within the Walls of a ſmall City, they did meet for the choice of their Kings, as afterwards for the choice of other

* Nos que valemos tanto come vos, os hazemos nueſtro Rey, con tal que nos guardeys nueſtros fueros y libertades, y ſino, no. *Relacion. de Ant. Perez.*

Magiſtrats.

Magiſtrats. Whilſt the *Goths*, *Franks*, *Vandals* and *Saxons*, liv'd within the Precincts of a Camp, they frequently met for the Election of a King, and rais'd upon a Target the Perſon they had choſen: but finding that to be inconvenient, or rather impoſſible, when they were vaſtly increas'd in number, and diſpers'd over all the Countrys they had conquer'd, no better way was found, than to inſtitute *Gemotes*, *Parliaments*, *Diets*, *Cortez*, *Aſſemblys of Eſtates*, or the like, to do that which formerly had bin perform'd by themſelves; and when a People is, by mutual compact, join'd together in a civil Society, there is no difference as to Right, between that which is done by them all in their own Perſons, or by ſome deputed by all, and acting according to the Powers receiv'd from all. SECT. 5.

If our Author was ignorant of theſe things, which are the moſt common in all Hiſtorys, he might have ſpar'd the pains of writing upon more abſtruſe Points; but 'tis a ſtupendous folly in him, to preſume to raiſe Doctrins depending upon the univerſal Law of God and Nature, without examining the only Law that ever God did in a publick manner give to Man. If he had look'd into it, he might have learnt, That all *Iſrael* was, by the command of God, aſſembl'd at *Miſpeth* to chuſe a King, and did chuſe *Saul*: He being ſlain, all *Judah* came to *Hebron*, and made *David* their King: After the death of *Iſhboſheth*, all the Tribes went to *Hebron*, and anointed him King over them, and he made a Covenant with them before the Lord. When *Solomon* was dead, all *Iſrael* met together in *Shechem*, and ten Tribes diſliking the proceedings of *Rehoboam*, rejected him, and made *Jeroboam* their King. The ſame People in the time of the Judges, had general Aſſemblys, as often as occaſion did require, to ſet up a Judg, make War, or the like: And the ſeveral Tribes had their Aſſemblys to treat of Buſineſſes relating to themſelves. The Hiſtorys of all Nations, eſpecially of thoſe that have peopled the beſt parts of *Europe*, are ſo full of Examples in this kind, that no man can queſtion them, unleſs he be brutally ignorant, or malicioufly contentious. The great matters among the *Germans* were tranſacted *omnium conſenſu*. *De minoribus conſultant Principes*; *de majoribus omnes*. The *Michelgemote* among the *Saxons* was an Aſſembly of the whole People: The *Baronagium* is truly ſaid to be the ſame, in as much as it comprehended all the Freemen, that is, all the People; for the difference between *Civis* and *Servus* is irreconcilable; and no man, whilſt he is a Servant, can be a Member of a Commonwealth; for he that is not in his own power, cannot have a part in the Government of others. All the forementiond Northern Nations had the like cuſtoms among 'em: The Governments they had were ſo inſtituted. The utmoſt that any now remaining pretends to, is, to derive their right from them: If, according to *Filmer*, theſe firſt Aſſemblys could not confer it upon the firſt, they had none: Such as claim under 'em, can inherit none from thoſe that had none; and there can be no right in all the Governments we ſo much venerate; and nothing can tend more to their overthrow than the reception of our Author's Doctrin.

1 Sam. 10.
2 Sam. 2.
2 Sam. 5.
1 King. 12.
C. Tacit. de mor. Germ.

Tho any one Inſtance would be ſufficient to overthrow his general negative Propoſition (for a Rule is not generally true, if there be any juſt Exception againſt it) I have alledg'd many, and find it ſo eaſy to increaſe the number, that there is no Nation, whoſe Original we know, out of whoſe Hiſtorys I will not undertake to produce the like: But I have not bin ſolicitous preciſely to diſtinguiſh, which Nations have acted

in

CHAP. II.

in their own Perſons, and which have made uſe of Delegats; nor in what times they have chang'd from one way to the other: for if any have acted by themſelves, the thing is poſſible; and whatſoever is done by delegated Powers, muſt be refer'd to their Principals; for none can give to any a Power which they have not in themſelves.

He is graciouſly pleas'd to confeſs, That *when Men are aſſembled by a human Power, that Power that dos aſſemble them, may alſo limit the manner of the execution of that Power*, &c. *But in Aſſemblys that take their Authority from the Law of Nature, it is not ſo; for what liberty or freedom is due to any man by the Law of Nature, no inferior Power can alter, limit or diminiſh: No one man, or multitude of men, can give away the natural Right of another*, &c. Theſe are ſtrong Lines, and ſuch as, if there be any ſenſe in them, utterly overthrow all our Author's Doctrin; for if any Aſſembly of men did ever take their Authority from the Law of Nature, it muſt be of ſuch as, remaining in the intire fruition of their natural Liberty, and reſtrain'd by no Contract, meet together to deliberate of ſuch matters as concern themſelves; and if they can be reſtrnin'd by no one man, or number of men, they may diſpoſe of their own Affairs as they think fit. But becauſe no one of them is oblig'd to enter into the Society that the reſt may conſtitute, he cannot enjoy the benefit of that Society unleſs he enter into it: He may be gone and ſet up for himſelf, or ſet up another with ſuch as will agree with him. But if he enter into the Society, he is oblig'd by the Laws of it; and if one of thoſe Laws be, that all things ſhould be determin'd by the plurality of Voices, his Aſſent is afterwards comprehended in all the Reſolutions of that Plurality. *Reuben* or *Simeon* might, according to the Laws of Nature, have divided themſelves from their Brethren, as well as *Lot* from *Abraham*, or *Iſmael* and the Sons of *Keturah* from *Iſaac*; but when they, in hopes of having a part in the Inheritance promis'd to their Fathers, had join'd with their Brethren, a few of their Deſcendents could not have a right, by their diſſent, to hinder the Reſolutions of the whole Body, or ſuch a part of it as by the firſt Agreement was to paſs for an Act of the whole. And the

1 Sam. 10. Scripture teaches us, that when the Lot was fallen upon *Saul*, they who deſpis'd him were ſtil'd *Men of Belial*; and the reſt, after his Victory over the *Ammonites*, would have ſlain 'em if he had permitted. In the like manner, when a number of Men met together to build *Rome*, any man who had diſlik'd the deſign, might juſtly have refus'd to join in it; but when he had enter'd into the Society, he could not by his Vote invalidate the Acts of the whole, nor deſtroy the Rights of *Romulus*, *Numa*, and the others, who by the Senat and People were made Kings; nor thoſe of the other Magiſtrats, who after their expulſion were legally created.

This is as much as is requir'd to eſtabliſh the natural Liberty of Mankind in its utmoſt extent, and cannot be ſhaken by our Author's ſurmiſe, *That a Gap is thereby open'd for every ſeditious multitude to raiſe a new Commonwealth*: For till the Commonwealth be eſtabliſh'd, no multitude can be ſeditious, becauſe they are not ſubject to any human Law; and Sedition implies an unjuſt and diſorderly oppoſition of that Power which is legally eſtabliſh'd; which cannot be when there is none, nor by him who is not a Member of the Society that makes it; and when it is made, ſuch as enter'd into it, are oblig'd to the Laws of it.

This ſhewing the root and foundation of Civil Powers, we may judg of the uſe and extent of them, according to the letter of the Law, or the true intentional meaning of it; both which declare them to be purely

Human

Human Ordinances, proceeding from the will of thoſe who ſeek their own good; and may certainly infer, that ſince all Multitudes are compos'd of ſuch as are under ſome Contract, or free from all, no Man is oblig'd to enter into thoſe contracts againſt his own will, nor oblig'd by any to which he dos not aſſent: Thoſe multitudes that enter into ſuch Contracts, and thereupon form Civil Societys, act according to their own will: Thoſe that are engag'd in none, take their Authority from the Law of Nature; their Rights cannot be limited or diminiſh'd by any one Man, or number of Men; and conſequently whoever dos it, or attempts the doing of it, violates the moſt ſacred Laws of God and Nature. SECT. 5.

His cavils concerning Proxys, and the way of uſing them, deſerve no anſwer, as relating only to one ſort of Men amongſt us, and can have no influence upon the Laws of Nature, or the proceedings of Aſſemblys, acting according to ſuch Rules as they ſet to themſelves. In ſome places they have voted all together in their own perſons, as in *Athens:* In others by Tribes, as in *Rome:* Sometimes by Delegats, when the number of the whole People is ſo great, that no one place can contain them, as in the Parliaments, Diets, General Aſſemblys of Eſtates, long us'd in the great Kingdoms of *Europe.* In other Parts many Citys are join'd together in Leagues, as antiently the *Achaians*, *Etolians*, *Samnites*, *Tuſcans*; and in theſe times the States of *Holland*, and Cantons of *Switzerland:* but our Author not regarding ſuch matters, in purſuance of his folly, with an ignorance as admirable as his ſtupidity, repeats his Challenge; *I ask*, ſays he, *but one Example out of the Hiſtory of the whole World; let the Commonwealth be nam'd, wherever the Multitude, or ſo much as the major part of it, conſented either by Voice or Procuration to the Election of a Prince:* not obſerving, that if an Anſwer could not be given, he did overthrow the Rights of all the Princes that are, or ever have bin in the World: for if the Liberty of one Man cannot be limited or diminiſh'd by one, or any number of Men, and none can give away the Right of another; 'tis plain that the Ambition of one Man, or of many, a faction of Citizens, or the mutiny of an Army, cannot give a Right to any over the Libertys of a whole Nation. Thoſe who are ſo ſet up, have their root in Violence or Fraud, and are rather to be accounted Robbers and Pirats, than Magiſtrats. *Leo Africanus* obſerving in his Hiſtory, that ſince the extinction of *Mahomet*'s Race (to whom his Countrymen thought God had given the Empire of the World) their Princes did not come in by the conſent of thoſe Nations which they govern'd, ſays, that they are eſteem'd Thieves; and that on this account, the moſt honourable Men among the *Arabians* and *Moors* ſcorn to eat, drink, or make Alliances with them: and if the caſe were as general as that Author makes it, no better Rule could be any where follow'd by honourable and worthy Men. But a good Cauſe muſt not be loſt by the fault of an ill Advocate; the Rights of Kings muſt not periſh, becauſe *Filmer* knows not how to defend, or dos maliciouſly betray them. I have already prov'd that *David*, and divers of the Judges, were choſen by all *Iſrael*; *Jeroboam* by ten Tribes; all the Kings of *Rome*, except *Tarquin* the Proud, by the whole City. I may add many Examples of the *Saxons* in our own Country: *Ina* and *Offa* were made Kings, *omnium conſenſu:* Theſe *All* are expreſt plainly by the words, *Archiepiſcopis*, *Epiſcopis*, *Abbatibus*, *Senatoribus*, *Ducibus & Populo terræ*. *Egbert* and *Ethelward* came to the Crown by the ſame Authority, *Omnium conſenſu Rex creatur*. *Ethelwolf* the Monk, *Neceſſitate cogente factus eſt Rex, & conſenſus publicus in regem dari petiit*. *Ethelſtan*,

Leonis Afr. Hiſt. Africæ.

Mat. Paris.

Guil. Malmſ. Polyd.

CHAP. II.

Polyd. Huntingd. Mat. West. Hoveden. Florent. Abbas Croyl. Huntingd. Ingulf.

stan, tho a Bastard, *electus est magno consensu Optimatum, & a Populo consalutatus.* In the like manner *Edwin*'s Government being dislik'd, they chose *Edgar: Unanimi omnium conspiratione, Edwino dejecto, eligerunt Deo dictante Edgarum in Regem, & annuente Populo:* And in another place, *Edgarus ab omni Anglorum Populo electus est. Ironside* being dead, *Canutus* was receiv'd by the general consent of all: *Juraverunt illi, quod eum regem sibi eligere vellent; fœdus etiam cum principibus & omni populo ipse, & illi cum ipso percusserunt.* Whereupon, *Omnium consensu super totam Angliam Canutus coronatur. Hardicanutus gaudenter ab omnibus suscipitur & electus est.* The same Author says that *Edward* the Confessor, *electus est in regem ab omni populo:* And another, *Omnium Electione in Edwardum concordatur.* Tho the name of Conqueror be odiously given to *William* the *Norman*, he had the same Title to the Crown with his Predecessors; *In magna exultatione a Clero & Populo susceptus, & ab omnibus Rex acclamatus.* I cannot recite all the Examples of this kind, that the History of almost all Nations furnishes, unless I should make a Volume in bulk not inferior to the Book of *Martyrs:* But those which I have mention'd out of the Sacred, *Roman*, and *English* History, being more than sufficient to answer our Author's Challenge, I take liberty to add, that tho there could not be one Example produc'd of a Prince, or any other Magistrate, chosen by the general consent of the People, or by the major part of them, it could be of no advantage to the Cause he has undertaken to maintain: For when a People has either indefinitely, or under certain Conditions and Limitations, resign'd their Power into the hands of a certain number of Men; or agreed upon Rules, according to which Persons should, from time to time, be deputed for the management of their Affairs, the Acts of those Persons, if their Power be without restrictions, are of the same value as the Acts of the whole Nation, and the assent of every individual Man is comprehended in them. If the Power be limited, whatsoever is done according to that limitation, has the same Authority. If it dos therefore appear (as is testify'd by the Laws and Historys of all our Northern Nations) that the power of every People is either wholly, or to such a degree as is necessary for creating Kings, granted to their several Gemotes, Diets, Cortez, Assemblys of Estates, Parliaments, and the like; all the Kings that they have any where, or at any time chosen, do reign by the same authority, and have the same right, as if every individual Man of those Nations had assented to their Election. But that these Gemotes, Diets, and other Assemblys of State, have every where had such Powers, and executed them by rejecting or setting up Kings; and that the Kings now in being among us have receiv'd their beginning from such Acts, has bin fully prov'd, and is so plain in it self, that none but those who are grosly stupid or impudent can deny it: which is enough to shew that all Kings are not set up by violence, deceit, faction of a few powerful Men, or the mutinys of Armys; but from the consent of such multitudes, as joining together, frame Civil Societys; and either in their own Persons at general Assemblys, or by their Delegats, confer a just and legal Power upon them; which our Author rejecting, he dos, as far as in him lies, prove them all to be Usurpers and Tyrants.

SECT.

SECT. VI.

They who have a right of chuſing a King, have the right of making a King.

THO the Right of Magiſtrats dos eſſentially depend upon the conſent of thoſe they govern, it is hardly worth our pains to examin, *Whether the ſilent acceptation of a Governor by part of the People be an argument of their concurring in the election of him; or by the ſame reaſon the tacit conſent of the whole Commonwealth may be maintain'd:* for when the queſtion is concerning Right, fraudulent ſurmiſes are of no value; much leſs will it from thence follow, *that a Prince commanding by Succeſſion, Conqueſt, or Uſurpation, may be ſaid to be elected by the People*; for evident marks of diſſent are often given: Some declare their hatred; others murmur more privatly; many oppoſe the Governour or Government, and ſucceed according to the meaſure of their Strength, Virtue, or Fortune. Many would reſiſt, but cannot; and it were ridiculous to ſay, that the Inhabitants of *Greece*, the Kingdom of *Naples*, or Dutchy of *Tuſcany*, do tacitly aſſent to the Government of the Great *Turk*, King of *Spain*, or Duke of *Florence*; when nothing is more certain than that thoſe miſerable Nations abhor the Tyrannys they are under; and if they were not maſter'd by a Power much too great for them, they would ſoon free themſelves. And they who are under ſuch Governments do no more aſſent to them, tho they may be ſilent, than a Man approves of being robb'd, when, without ſaying a word, he delivers his Purſe to a Thief that he knows to be too ſtrong for him.

'Tis not therefore the bare ſufferance of a Government when a diſguſt is declar'd, nor a ſilent ſubmiſſion when the power of oppoſing is wanting, that can imply an Aſſent, or Election, and create a Right; but an explicit act of Approbation, when Men have ability and courage to reſiſt or deny. Which being agreed, 'tis evident that our Author's diſtinction between *eligere* and *inſtituere* ſignifys nothing: tho, if the power of inſtituting were only left to Nations, it would be ſufficient; for he is in vain elected who is not inſtituted; and he that is inſtituted is certainly elected, for his Inſtitution is an Election. As the *Romans* who choſe *Romulus*, *Numa*, and *Hoſtilius* to be Kings; and *Brutus*, *Valerius*, or *Lucretius* to be Conſuls; did make them ſo, and their Right was ſolely grounded upon their Election. The Text brought by our Author againſt this dos fully prove it, *Him ſhalt thou ſet King over thee whom the Lord ſhall chuſe*; Deut. 17. for God did not only make the inſtitution of a King to be purely an act of the People, but left it to them to inſtitute one or not, as ſhould beſt pleaſe themſelves: and the words, *whom the Lord ſhall chuſe*, can have no other ſignification, than that the People reſolving to have a King, and following the Rules preſcrib'd by his Servant *Moſes*, he would direct 'em in their choice; which relates only to that particular People in covenant with God, and immediatly under his Government, which no other was. But this pains might have bin ſav'd, if God by a univerſal Law had given a rule to all. The *Iſraelites* could not have bin three hundred years without a King, and then left to the liberty of making one, or not, if he by a perpetual Law had ordain'd that every Nation ſhould have one; and it

CHAP. II.

had bin as well impertinent as unjuſt to deliberate who ſhould be King, if the Dominion had by right of Inheritance belong'd to one: They muſt have ſubmitted to him whether they would or not: No care was to be taken in the election or inſtitution of him, who by his birth had a Right annex'd to his Perſon that could not be alter'd: He could not have bin forbidden *to multiply Silver or Gold*, who by the Law of his Creation might do what he pleas'd: It had bin ridiculous to ſay, *he ſhould not raiſe his Heart above his Brethren*, who had no Brethren, that is, no Equals; but was rais'd above all by God, who had impos'd upon all others a neceſſity of obeying him. But God, who dos nothing in vain, did neither conſtitute or elect any till they deſir'd it, nor command 'em to do it themſelves, unleſs it ſo pleas'd themſelves; nor appoint 'em to take him out of any one Line: Every *Iſraelite* might be choſen: None but Strangers were excluded; and the People were left to the liberty of chuſing and inſtituting any one of their Brethren.

Our Author endeavouring by *Hooker*'s authority to eſtabliſh his diſtinction between *eligere* and *inſtituere*, deſtroys it, and the paternal Right, which he makes the foundation of his Doctrine. *Heaps of Scripture are alledg'd*, ſays he, *concerning the ſolemn Coronation and Inauguration of* Saul, David, Solomon *and others, by Nobles, Antients, and People of the Commonwealth of* Iſrael: which is enough to prove that the whole work was theirs; that no other had any title more than what they beſtow'd upon him; that the Kings were ſet up by the Nobles, Antients and People: Even God did no otherwiſe intervene than by ſuch a ſecret diſpoſition of the Lots by his Providence, as is exercis'd in the Government of all the things in the World; and we cannot have a more certain evidence, that a paternal right to Dominion is a mere Whimſy, than that God did not cauſe the Lot to fall upon the eldeſt, of the eldeſt Line, of the eldeſt Tribe; but upon *Saul*, a young Man, of the youngeſt Tribe: and afterwards, tho he had deſign'd *David, Solomon, Jeroboam*, and others, who had no pretence to the paternal Right, to be Kings, he left both the election and inſtitution of them to the Elders and People.

But *Hooker* being well examin'd, it will appear that his opinions are as contrary to the Doctrin of our Author, as thoſe we have mention'd out of *Plato* and *Ariſtotle*. He plainly ſays, *It is impoſſible that any ſhould have a compleat lawful power over a multitude conſiſting of ſo many Familys, as every politick Society dos, but by conſent of Men, or immediate appointment from God: Becauſe not having the natural Superiority of Fathers, their Power muſt needs be uſurp'd, and then unlawful; or if lawful, then either granted or conſented to by them over whom they exerciſe the ſame, or elſe given extraordinarily by God.* And tho he thinks Kings to have bin the firſt Governors ſo conſtituted, he adds, *That this is not the only Regiment that has bin receiv'd in the World. The inconveniences of one kind have caus'd ſundry others to be devis'd. So that in a word, all publick Regiment, of what kind ſoever, ſeems evidently to have riſen from deliberate advice, conſultation and compoſition between Men, judging it convenient and behoofeful.* And a little below, *Man's Nature ſtanding therefore as it doth, ſome kind of regiment the Law of Nature dos require; yet the kinds thereof being many, Nature ties not to any one, but leaves the choice as a thing arbitrary.* And again, *To live by one Man's will, became all Mens miſery: This conſtrain'd them to come unto Laws,* &c. *But as thoſe Laws do not only teach that which is good, but enjoin it, they have in them a conſtraining force. To conſtrain Men to any thing inconvenient ſeems unreaſonable: Moſt requiſite therefore it is that to deviſe Laws, which*

Hooker Eccl. Pol. l. 1. c. 10.

which all Men ſhould be forc'd to obey, none but wiſe Men ſhould be admitted. SECT. 6. *Moreover that which we ſay concerning the power of Government, muſt here be apply'd to the power of making Laws, whereby to govern; which Power God has over all; and by the natural Law, whereunto he has made all ſubject, the lawful power of making Laws to command whole politick Societys of men, belongs ſo properly to the ſame intire Societys, that for any Prince or Potentate, of what kind ſoever upon Earth, to exerciſe the ſame of himſelf, and not either by expreſs commiſſion immediatly from God, or elſe by authority deriv'd at the firſt from their conſent, upon whoſe perſons they impoſe Laws, it is no better than mere Tyranny. Laws therefore they are not, which publick conſent has not made ſo.* The humour of our Age conſider'd, I ſhould not have ventur'd to ſay ſo much: But if *Hooker* be a Man of ſuch great Authority, I cannot offend in tranſcribing his words, and ſhewing how vilely he is abus'd by *Filmer*; concluding, that if he be in the right, the choice and conſtitution of Government, the making of Laws, Coronation, Inauguration, and all that belongs to the chuſing and making of Kings, or other Magiſtrats, is merely from the People; and that all Power exercis'd over them, which is not ſo, is Uſurpation and Tyranny, unleſs it be by an immediate Commiſſion from God; which if any man has, let him give teſtimony of it, and I will confeſs he comes not within the reach of our reaſonings, but ought to be obey'd by thoſe to whom he is ſent, or over whom he is plac'd.

Nevertheleſs our Author is of another opinion; but ſcorning to give us a reaſon, he adds to *Hooker*'s words, *As if theſe Solemnitys were a kind of deed, whereby the right of Dominion is given; which ſtrange, untrue, and unnatural Conceits are ſet abroad by Seedſmen of Rebellion:* And a little farther, *Unleſs we will openly proclaim defiance to all Law, Equity, and Reaſon, we muſt ſay (for there is no remedy) that in Kingdoms hereditary, Birthright giveth a Right to Sovereign Dominion,* &c. *Thoſe Solemnitys do either ſerve for an open teſtification of the Inheritor's Right, or belong to the form of inducing him into the poſſeſſion.* Theſe are bold Cenſures, and do not only reach Mr. *Hooker*, whoſe modeſty and peaceableneſs of ſpirit is no leſs eſteem'd than his Learning; but the Scriptures alſo, and the beſt of human Authors, upon which he founded his Opinions. But why ſhould it be thought a ſtrange, untrue, or unnatural Conceit, to believe that when the Scriptures ſay *Nimrod* was the firſt that grew powerful in the Earth, long before the death of his Fathers, and could conſequently neither have a right of Dominion over the Multitude met together at *Babylon*, nor ſubdue them by his own ſtrength, he was ſet up by their Conſent; or that they who made him their Governor, might preſcribe Rules by which he ſhould govern? Nothing ſeems to me leſs ſtrange, than that a multitude of reaſonable Creatures, in the performance of Acts of the greateſt importance, ſhould conſider why they do them. And the infinite variety which is obſerv'd in the conſtitution, mixture, and regulation of Governments, dos not only ſhew that the ſeveral Nations of the World have conſider'd them; but clearly prove that all Nations have perpetually continu'd in the exerciſe of that Right. Nothing is more natural than to follow the voice of Mankind: The wiſeſt and beſt have ever employ'd their ſtudys in forming Kingdoms and Commonwealths, or in adding to the perfections of ſuch as were already conſtituted; which had bin contrary to the Laws of God and Nature, if a general Rule had bin ſet, that had oblig'd all to be for ever ſubject to the Will of one; and they had not bin the beſt, but the worſt of men who had departed

CHAP. II.

from it. Nay, I may say, that the Law given by God to his peculiar People, and the Commands deliver'd by his Servants in order to it, or the prosecution of it, had bin contrary to his own eternal and universal Law; which is impossible. A Law therefore having bin given by God, which had no relation to, or consistency with the absolute paternal power; Judges and Kings created, who had no pretence to any preference before their Brethren, till they were created, and commanded not to raise their Hearts above them when they should be created; the Wisdom and Vertue of the best men in all ages shewn in the constitution or reformation of Governments; and Nations in variously framing them, preserving the possession of their natural Right, to be govern'd by none, and in no other way than they should appoint: The opinions of *Hooker*, *That all publick Regiment, of what kind soever, arises from the deliberate advice of men seeking their own good, and that all other is mere Tyranny*; are not *untrue and unnatural conceits set abroad* by the *Seedsmen of Rebellion*, but real Truths grounded upon the Laws of God and Nature, acknowledg'd and practis'd by Mankind. And no Nation being justly subject to any but such as they set up, nor in any other manner than according to such Laws as they ordain, the right of chusing and making those that are to govern them, must wholly depend upon their Will.

SECT. VII.

The Laws of every Nation are the measure of Magistratical Power.

OUR Author lays much weight upon the word *Hereditary*: but the question is, What is inherited in an Hereditary Kingdom, and how it comes to be hereditary? 'Tis in vain to say *the Kingdom*; for we do not know what he means by the Kingdom: 'tis one thing in one place, and very different in others; and I think it not easy to find two in the World that in power are exactly the same. If he understands all that is comprehended within the precincts over which it reaches, I deny that any such is to be found in the World: If he refers to what preceding Kings enjoy'd, no determination can be made, till the first original of that Kingdom be examin'd, that it may be known what that first King had, and from whence he had it.

If this variety be denied, I desire to know whether the Kings of *Sparta* and *Persia* had the same power over their Subjects; if the same, whether both were absolute, or both limited; if limited, how came the Decrees of the *Persian* Kings to pass for Laws? If absolute, how could the *Spartan* Kings be subject to Fines, Imprisonment, or the sentence of Death; and not to have power to send for their own Supper out of the Common Hall? Why did *Xenophon* call *Agesilaus* a good and faithful King, obedient to the Laws of his Country, when, upon the command of the *Ephori*, he left the War that he had with so much glory begun in *Asia*, if he was subject to none? How came the *Ephori* to be establish'd to restrain the Power of Kings, if it could no way be restrain'd, if all ow'd obedience to them, and they to none? Why did *Theopompus* his Wife reprove him for suffering his power to be diminish'd by their creation, if it could not be diminish'd? Or why did he say he had made the

Power

Power more permanent in making it leſs odious, if it was perpetual and unalterable? We may go farther, and taking *Xenophon* and *Plutarch* for our guides, aſſert that the Kings of *Sparta* never had the powers of War or Peace, Life and Death, which our Author eſteems inſeparable from Regality, and conclude either that no King has them, or that all Kings are not alike in power. If they are not in all places the ſame, Kings do not reign by an univerſal Law, but by the particular Laws of each Country; which give to every one ſo much power, as in the opinion of the givers conduces to the end of their Inſtitution, which is the publick good. SECT. 7.

It may be alſo worth our inquiry how this inherited Power came to be hereditary. We know that the Sons of *Veſpaſian* and *Conſtantine* inherited the *Roman* Empire, tho their Fathers had no ſuch title: But having gain'd the Empire by violence, which *Hooker* ſays is mere Tyranny that can create no right, they could devolve none to their Children. The Kings of *France* of the three Races have inherited the Crown; but *Meroveus*, *Pepin*, and *Hugh Capet* could neither pretend title nor conqueſt, or any other Right than what was confer'd upon them by the Clergy, Nobility, and People; and conſequently whatſoever is inherited from them can have no other Original; for that is the gift of the People which is beſtow'd upon the firſt, under whom the Succeſſors claim, as if it had bin by a peculiar Act given to every one of them. It will be more hard to ſhew how the Crown of *England* is become hereditary, unleſs it be by the Will of the People; for tho it were granted that ſome of the *Saxon* Kings came in by inheritance (which I do not, having, as I think, prov'd them to have bin abſolutely elective) yet *William* the *Norman* did not, for he was a Baſtard, and could inherit nothing. *William Rufus* and *Henry* did not; for their Elder Brother *Robert* by right of Inheritance ought to have bin prefer'd before 'em: *Stephen* and *Henry* the ſecond did not; for *Maud* the only Heireſs of *Henry* the firſt was living when both were crown'd: *Richard* and *John* did not, for they were Baſtards born in adultery. They muſt therefore have receiv'd their Right from the People, or they could have none at all; and their Succeſſors fall under the ſame condition.

Moreover, I find great variety in the deduction of this hereditary Right. In *Sparta* there were two Kings of different Familys, endow'd with an equal power. If the *Heraclidæ* did reign as Fathers of the People, the *Æacidæ* did not: if the right was in the *Æacidæ*, the *Heraclidæ* could have none; for 'tis equally impoſſible to have two Fathers as two thouſand. 'Tis in vain to ſay that two Familys join'd, and agreed to reign jointly: for 'tis evident the *Spartans* had Kings before the time of *Hercules* or *Achilles*, who were the Fathers of the two Races. If it be ſaid that the Regal power with which they were inveſted did entitle 'em to the right of Fathers, it muſt in like manner have belong'd to the *Roman* Conſuls, Military Tribunes, Dictators and Pretors; for they had more Power than the *Spartan* Kings; and that glorious Nation might change their Fathers every year, and multiply or diminiſh the number of 'em as they pleas'd. If this be moſt ridiculous and abſurd, 'tis certain that the Name and Office of King, Conſul, Dictator, or the like, dos not confer any determin'd Right upon the Perſon that has it: Every one has a right to that which is allotted to him by the Laws of the Country by which he is created.

CHAP. II.

As the *Perſians*, *Spartans*, *Romans* or *Germans*, might make ſuch Magiſtrats, and under ſuch names as beſt pleas'd themſelves, and accordingly enlarge or diminiſh their Power; the ſame Right belongs to all Nations, and the Rights due unto, as well as the Dutys incumbent upon every one, are to be known only by the Laws of that place. This may ſeem ſtrange to thoſe who know neither Books nor Things, Hiſtorys nor Laws; but is well explain'd by *Grotius*, who denying the Sovereign Power to be annex'd to any Name, ſpeaks of divers Magiſtrats under ſeveral names that had, and others that under the ſame names had it not; and diſtinguiſhes thoſe who have the *Summum Imperium ſummo modo*, from thoſe who have it *modo non ſummo*: and tho probably he look'd on the firſt ſort as a thing merely ſpeculative, if by that *ſummo modo*, a right of doing what one pleaſes be underſtood; yet he gives many Examples of the other. Among thoſe who had *liberrimum imperium*, if any had it, he names the Kings of the *Sabeans*; who nevertheleſs were under ſuch a condition, that tho they were, as *Agatharchidas* reports, obey'd in all things, whilſt they continu'd within the Walls of their Palace, might be ſton'd by any that met 'em without it. He finds alſo another Obſtacle to the Abſolute power, *Cum Rex partem habeat ſummi Imperii, partem Senatus, ſive Populus*; which parts are proportion'd according to the Laws of each Kingdom, whether Hereditary or Elective, both being equally regulated by them.

Grot. de Jur. bel. & pac. l. 1. c. 1.

The Law that gives and meaſures the Power, preſcribes Rules how it ſhould be tranſmitted. In ſome places the ſupreme Magiſtrats are annually elected, in others their Power is for life; in ſome they are merely elective, in others hereditary under certain Rules or Limitations. The antient Kingdoms and Lordſhips of *Spain* were hereditary; but the Succeſſion went ordinarily to the eldeſt of the reigning Family, not to the neareſt in Blood. This was the ground of the Quarrel between *Corbis* the Brother, and *Orſua* the Son of the laſt Prince, decided by combat before *Scipio*. I know not whether the *Goths* brought that cuſtom with 'em when they conquer'd *Spain*, or whether they learnt it from the Inhabitants; but certain it is, that keeping themſelves to the Familys of the *Balthei*, and *Amalthei*, they had more regard to Age than Proximity; and almoſt ever prefer'd the Brother, or eldeſt Kinſman of the laſt King before his Son. The like cuſtom was in uſe among the *Moors* in *Spain* and *Africa*, who according to the ſeveral Changes that happen'd among the Familys of *Almohades*, *Almoranides*, and *Benemerini*, did always take one of the reigning Blood; but in the choice of him had moſt reſpect to Age and Capacity. This is uſually call'd the Law of *Thaneſtry*; and, as in many other places, prevail'd alſo in *Ireland*, till that Country fell under the *Engliſh* Government.

T. Liv. l. 28.

Saavedra corona Gothica.

Marian. Hiſt. Hiſpan.

In *France* and *Turky* the Male that is neareſt in Blood, ſucceeds; and I do not know of any deviation from that Rule in *France*, ſince *Henry* the Firſt was prefer'd before *Robert* his elder Brother, Grandchild to *Hugh Capet*: But notwithſtanding the great veneration they have for the Royal Blood, they utterly exclude Females, leſt the Crown ſhould fall to a Stranger; or a Woman that is ſeldom able to govern her ſelf, ſhould come to govern ſo great a People. Some Nations admit Females, either ſimply, as well as Males; or under a condition of not marrying out of their Country, or without the conſent of the Eſtates, with an abſolute excluſion of them and their Children if they do; according to which Law, now in force among the *Swedes*, *Charles Guſtavus* was choſen King

upon

upon the reſignation of Queen *Chriſtina*, as having no Title; and the Crown ſetled upon the Heirs of his Body, to the utter excluſion of his Brother *Adolphus*, their Mother having married a *German*. Tho divers Nations have differently diſpos'd their Affairs; all thoſe that are not naturally Slaves, and like to Beaſts, have prefer'd their own Good before the perſonal Intereſts of him that expects the Crown, ſo as upon no pretence whatever to admit of one who is evidently guilty of ſuch Vices as are prejudicial to the State. For this reaſon the *French*, tho much addicted to their Kings, rejected the vile remainders of *Meraveus* his Race, and made *Pepin* the Son of *Charles Martel* King: And when his Deſcendents fell into the like Vices, they were often depos'd, till at laſt they were wholly rejected, and the Crown given to *Capet* and to his Heirs Male as formerly. Yet for all this *Henry* his Grandchild, being eſteem'd more fit to govern than his elder Brother *Robert*, was, as is ſaid before, made King, and that Crown ſtill remains in his Deſcendents; no conſideration being had of the Children of *Robert*, who continu'd Dukes of *Burgundy* during the reigns of ten Kings. And in the memory of our Fathers, *Henry* of *Navarr* was rejected by two Aſſemblys of the Eſtates, becauſe he differ'd in Religion from the Body of the Nation, and could never be receiv'd as King, till he had renounc'd his own, tho he was certainly the next in Blood; and that in all other reſpects he excel'd in thoſe Vertues which they moſt eſteem. SECT. 7.

We have already prov'd, that our own Hiſtory is full of the like Examples, and might enumerate a multitude of others, if it were not too tedious: and as the various Rules, according to which all the hereditary Crowns of the World are inherited, ſhew, that none is ſet by Nature, but that every People proceeds according to their own Will; the frequent deviations from thoſe Rules do evidently teſtify, that *Salus Populi eſt Lex ſuprema*; and that no Crown is granted otherwiſe, than in ſubmiſſion to it.

But tho there were a Rule, which in no caſe ought to be tranſgreſt, there muſt be a Power of judging to whom it ought to be applied. 'Tis perhaps hard to conceive one more preciſe than that of *France*, where the eldeſt Legitimate Male in the direct Line is prefer'd; and yet that alone is not ſufficient. There may be Baſtardy in the caſe: Baſtards may be thought legitimate, and legitimate Sons Baſtards. The Children born of *Iſabel* of *Portugal* during her Marriage with *John* the Third of *Caſtile* were declar'd Baſtards; and the Title of the Houſe of *Auſtria* to that Crown, depends upon that Declaration. We often ſee that Marriages which have bin contracted, and for a long time taken to be good, have bin declar'd null; and the legitimation of the preſent King of *France* is founded ſolely upon the abolition of the Marriage of *Henry* the Fourth with *Marguerite* of *Valois*, which for the ſpace of twenty ſeven Years was thought to have bin good. Whilſt *Spain* was divided into five or ſix Kingdoms, and the ſeveral Kings link'd to each other by mutual Alliances, inceſtuous Marriages were often contracted, and upon better conſideration annul'd; many have bin utterly void, thro the preingagement of one of the Partys. Theſe are not feign'd Caſes, but ſuch as happen frequently; and the diverſity of Accidents, as well as the humours of Men, may produce many others, which would involve Nations in the moſt fatal Diſorders, if every one ſhould think himſelf oblig'd to follow ſuch a one who pretended a Title, that to him might ſeem plauſible, when another ſhould ſet up one as pleaſing to others, and there were no Power

CHAP. II. to terminate thoſe Diſputes to which both muſt ſubmit, but the deciſion muſt be left to the Sword.

This is that which I call the Application of the Rule, when it is as plain and certain as human Wiſdom can make it; but if it be left more at large, as where Females inherit, the difficultys are inextricable: and he that ſays, the next Heir is really King when one is dead, before he be ſo declar'd by a Power that may judg of his Title, dos, as far as in him lies, expoſe Nations to be ſplit into the moſt deſperate Factions, and every man to fight for the Title which he fancies to be good, till he deſtroy thoſe of the contrary Party, or be deſtroy'd by them. This is the bleſſed way propos'd by our Author to prevent Sedition: But, God be thank'd, our Anceſtors found a better. They did not look upon *Robert* the *Norman* as King of *England* after the death of his Father; and when he did proudly endeavour, on pretence of Inheritance, to impoſe himſelf upon the Nation, that thought fit to prefer his younger Brothers before him, he paid the penalty of his folly, by the loſs of his Eyes and Liberty. The *French* did not think the Grandchild of *Pharamond* to be King after the death of his Father, nor ſeek who was the next Heir of the *Merovingian* Line, when *Chilperic* the Third was dead; nor regard the Title of *Charles* of *Lorrain* after the death of his Brother *Lothair*, or of *Robert* of *Burgundy* eldeſt Son of King *Robert*; but advanc'd *Meroveus*, *Pepin*, *Capet* and *Henry* the Firſt, who had no other Right than what the Nobility and People beſtow'd upon them. And if ſuch Acts do not deſtroy the Pretences of all who lay claim to Crowns by Inheritance, and do not create a Right, I think it will be hard to find a lawful King in the world, or that there ever has bin any; ſince the firſt did plainly come in like *Nimrod*, and thoſe who have bin every where ſince Hiſtorys are known to us, ow'd their exaltation to the Conſent of Nations, arm'd or unarm'd, by the depoſition or excluſion of the Heirs of ſuch as had reign'd before them.

Our Author not troubling himſelf with theſe things, or any other relating to the matter in queſtion, is pleas'd to ſlight *Hooker*'s Opinions concerning Coronation and Inauguration, with *the heaps of Scripture* upon which he grounds them; whereas thoſe Solemnitys would not only have bin fooliſh and impertinent, but profane and impious, if they were not Deeds by which the Right of Dominion is really confer'd. What could be more wickedly ſuperſtitious, than to call all *Iſrael* together before the Lord, and to caſt Lots upon every Tribe, Family and Perſon, for the election of a King, if it had bin known to whom the Crown did belong by a natural and unalterable Right? Or if there had bin ſuch a thing in Nature, how could God have caus'd that Lot to fall upon one of the youngeſt Tribe, for ever to diſcountenance his own Law, and divert Nations from taking any notice of it? It had bin abſurd for the Tribe of *Judah* to chuſe and anoint *David*, and for the other Tribes to follow their example after the death of *Iſhboſheth*, if he had bin King by a Right not depending on their Will. *David* did worſe in ſlaying the Sons of *Rimmon*, ſaying, they had kill'd a righteous Man lying upon his bed, if *Iſhboſheth*, whoſe Head they preſented, had moſt unrighteouſly detain'd from him, as long as he liv'd, the Dominion of the ten Tribes: The King, Elders and People, had moſt ſcornfully abus'd the moſt ſacred things, by uſing ſuch Ceremonys in making him King, and compleating their Work in a Covenant made between him and them before the Lord, if he had bin already King, and if thoſe Acts

had

had bin empty Ceremonys conferring no Right at all. SECT. 7.

I dare not ſay that a League dos imply an abſolute equality between both Partys; for there is a *Fœdus inequale*, wherein the weaker, as *Grotius* ſays, dos uſually obtain protection, and the ſtronger honour; but there can be none at all, unleſs both Partys are equally free to make it, or not to make it. *David* therefore was not King, till he was elected, and thoſe Covenants made; and he was made King by that Election and Covenants.

This is not ſhaken by our Author's Suppoſition, *That the People would not have taken* Joas, Manaſſeh *or* Joſiah, *if they had had a right of chuſing a King; ſince* Solomon *ſays, Wo unto the Kingdom whoſe King is a Child!* For, firſt, they who at the firſt had a right of chuſing whom they pleas'd to be King, by the Covenant made with him whom they did chuſe, may have depriv'd themſelves of the farther execution of it, and render'd the Crown hereditary even to Children, unleſs the Conditions come to be violated upon which it was granted. In the ſecond place, if the Infancy of a King brings Wo upon a People, the Government of ſuch a one cannot be according to the Laws of God and Nature; for Governments are not inſtituted by either for the pleaſure of a Man, but for the good of Nations; and their Weal, not their Wo, is ſought by both: And if Children are any where admitted to rule, 'tis by the particular Law of the place, grounded perhaps upon an opinion, that it is the beſt way to prevent dangerous Conteſts; or that other ways may be found to prevent the Inconveniences that may proceed from their weakneſs. Thirdly, It cannot be concluded that they might not reject Children, becauſe they did not: Such matters require poſitive Proofs, Suppoſitions are of no value in relation to them, and the whole matter may be alter'd by particular Circumſtances. The *Jews* might reaſonably have a great veneration for the Houſe of *David:* they knew what was promis'd to that Family; and whatever reſpect was paid, or privilege granted on that account, can be of no advantage to any other in the world. They might be farther induc'd to ſet up *Joas*, in hope the defects of his Age might be ſupplied by the Vertue, Experience and Wiſdom of *Jehoiada*. We do not know what good opinion may have bin conceiv'd of *Manaſſeh* when he was twelve years old; but much might be hop'd from one that had bin virtuouſly educated, and was probably under the care of ſuch as had bin choſen by *Hezekiah:* and tho the contrary did fall out, the miſchiefs brought upon the People by his wicked Reign, proceeded not from the weakneſs of his Childhood, but from the malice of his riper Years. And both the Examples of *Joas* and *Joſiah* prove, that neither of 'em came in by their own right, but by the choice of the People. Jehoiada *gather'd the* Levites *out of all the Citys of* Judah, *and the chief of the Fathers of* Iſrael, *and they came to* Jeruſalem: *And all the Congregation made a Covenant with the King in the Houſe of God, and brought out the King's Son, and put upon him the Crown, and gave him the Teſtimony, and made him King*; whereupon they ſlew *Athaliah*. *And when* Ammon *was ſlain, the people of the Land ſlew them that had conſpir'd againſt King* Ammon; *and the people of the Land made* Joſiah *his Son King in his ſtead:* which had bin moſt impertinent, if he was of himſelf King before they made him ſo. Beſides, tho Infancy may be a juſt cauſe of excepting againſt, and rejecting the next Heir to a Crown, 'tis not the greateſt of ſtrongeſt. 'Tis far more eaſy to find a Remedy againſt the folly of a Child (if the State be well regulated) than the more rooted Vices of grown men.

2 Chron. 23.

2 Chron. 33.

CHAP. II. The *Engliſh*, who willingly receiv'd *Henry* the Sixth, *Edward* the Fifth and Sixth, tho Children, reſolutely oppos'd *Robert* the *Norman*: And the *French*, who willingly ſubmitted to *Charles* the Ninth, *Lewis* the Thirteenth and Fourteenth in their Infancy, rejected the rude remainders of *Meroveus* his Race, *Charles* of *Lorrain* with his Kindred deſcended from *Pepin*, *Robert* Duke of *Burgundy* with his Deſcendents, and *Henry* of *Navarr*, till he had ſatisfy'd the Nobility and People in the point of Religion. And tho I do not know that the Letter upon the words, *Væ regno cujus Rex puer eſt*, recited by *Lambard*, was written by *Eleutherius* Biſhop of *Rome*; yet the Authority given to it by the *Saxons*, who made it a Law, is much more to be valu'd than what it could receive from the Writer: And whoever he was, he ſeems rightly to have underſtood *Solomon*'s meaning, who did not look upon him as a Child that wanted years, or was ſuperannuated, but him only who was guilty of Inſolence, Luxury, Folly and Madneſs; and he that ſaid, *A wiſe Child was better than an old and fooliſh King*, could have no other meaning, unleſs he ſhould ſay, it was worſe to be govern'd by a wiſe Perſon than a Fool; which may agree with the judgment of our Author, but could never enter into the heart of *Solomon*.

Lamb. Leg. Saxon.

Laſtly, Tho the practice of one or more Nations may indicate what Laws, Covenants or Cuſtoms were in force among them, yet they cannot bind others: The diverſity of them proceeds from the variety of mens Judgments, and declares, that the direction of all ſuch Affairs depends upon their own Will; according to which every People for themſelves do form and meaſure the Magiſtracy, and magiſtratical Power; which, as it is directed ſolely for the good, has its exerciſes and extent proportionable to the Command of thoſe that inſtitute it; and ſuch Ordinances being good for men, God makes them his own.

SECT. VIII.

There is no natural propenſity in Man or Beaſt to Monarchy.

I SEE no reaſon to believe that God did approve the Government of one over many, becauſe he created but one: but to the contrary, in as much he did endow him, and thoſe that came from him, as well the youngeſt as the eldeſt Line, with underſtanding to provide for themſelves, and by the invention of Arts and Sciences to be beneficial to each other; he ſhew'd, that they ought to make uſe of that underſtanding in forming Governments according to their own convenience, and ſuch occaſions as ſhould ariſe, as well as in other matters. And it might as well be infer'd, that it is unlawful for us to build, clothe, arm, defend, or nouriſh our ſelves, otherwiſe than our firſt Parents did, before or ſoon after the Flood, as to take from us the liberty of inſtituting Governments that were not known to them. If they did not find out all that conduces to the uſe of man, but a Faculty as well as a Liberty was left to every one, and will be to the end of the World, to make uſe of his Wit, Induſtry, and Experience, according to preſent Exigences, to invent and practiſe ſuch things as ſeem convenient to himſelf and others in matters of the leaſt importance; it were abſurd to imagin, that the political Science, which of all

others

others is the moſt abſtruſe and variable according to Accidents and Circumſtances, ſhould have bin perfectly known to them who had no uſe of it; and that their Deſcendents are oblig'd to add nothing to what they practis'd. But the reaſon given by our Author to prove this extravagant fancy, is yet more ridiculous than the thing it ſelf; *God*, ſays he, *ſhew'd his opinion*, viz. that all ſhould be govern'd by one, *when he endow'd not only Men, but Beaſts with a natural propenſity to Monarchy: Neither can it be doubted, but a natural propenſity is refer'd to God who is the Author of Nature:* Which I ſuppoſe may appear if it be conſider'd. SECT. 8.

Nevertheleſs I cannot but commend him in the firſt place for introducing God ſpeaking ſo modeſtly, not declaring his Will, but his Opinion. He puts haughty and majeſtick Language into the mouth of Kings. They command and decide, as if they were ſubject to no Error, and their Will ought to be taken for perpetual Laws; but to God he aſcribes an humble delivery of his Opinion only, as if he fear'd to be miſtaken. In the ſecond place, I deny that there is any ſuch general propenſity in Man or Beaſt, or that Monarchy would thereby be juſtify'd tho it were found in them. It cannot be in Beaſts, for they know not what Government is; and being uncapable of it, cannot diſtinguiſh the ſeveral ſorts, nor conſequently incline to one more than another. *Salmaſius* his ſtory of Bees is only fit for old Women to prate of in Chimny-corners; and they who repreſent Lions and Eagles as Kings of Birds and Beaſts, do it only to ſhow, that their Power is nothing but brutiſh Violence, exercis'd in the deſtruction of all that are not able to oppoſe it, and that has nothing of goodneſs or juſtice in it: which Similitude (tho it ſhould prove to be in all reſpects adequate to the matter in queſtion) could only ſhew, that thoſe who have no ſenſe of Right, Reaſon or Religion, have a natural propenſity to make uſe of their ſtrength to the deſtruction of ſuch as are weaker than they; and not that any are willing to ſubmit, or not to reſiſt it if they can; which I think will be of no great advantage to Monarchy. But whatever propenſity may be in Beaſts, it cannot be attributed generally to Men; for if it were, they never could have deviated from it, unleſs they were violently put out of their natural courſe; which in this caſe cannot be, for there is no Power to force them. But that they have moſt frequently deviated, appears by the various Forms of Government eſtabliſh'd by them. There is therefore no natural propenſity to any one, but they chuſe that which in their judgment ſeems beſt for them. Or, if he would have that inconſiderate impulſe, by which brutiſh and ignorant men may be ſway'd when they know no better, to paſs for a Propenſity; others are no more oblig'd to follow it, than to live upon Acorns, or inhabit hollow Trees, becauſe their Fathers did it when they had no better dwellings, and found no better nouriſhment in the uncultivated World. And he that exhibits ſuch Examples, as far as in him lies, endeavours to take from us the uſe of Reaſon, and, extinguiſhing the light of it, to make us live like the worſt of Beaſts, that we may be fit Subjects to abſolute Monarchy. This may perhaps be our Author's intention, having learn'd from *Ariſtotle*, that ſuch a Government is only ſutable to the nature of the moſt beſtial men, who being uncapable of governing themſelves, fall under the Power of ſuch as will take the conduct of 'em: But he ought withal to have remember'd, that, according to *Ariſtotle*'s opinion, this Conductor muſt be in nature different from thoſe he takes the charge of; and if he be not, there can be no Government, nor Order, by which it ſubſiſts: Beaſts follow Beaſts, and the blind lead the blind to deſtruction.

CHAP. II. But tho I ſhould grant this Propenſity to be general, it could not be imputed to God, ſince man by Sin is fallen from the Law of his Creation. *The wickedneſs of man* (even in the firſt Ages) *was great in the World: All the imaginations of his heart are evil, and that continually. All men are liars: There is none that doth good, no not one. Out of the heart proceed evil Thoughts, Murders, Adulterys, Fornications, Thefts, falſe Teſtimonys,* &c. Theſe are the Fruits of our corrupted nature, which the Apoſtle obſerving, dos not only make a difference between the natural and the ſpiritual Man, whoſe proceeding only can be refer'd to God, and that only ſo far as he is guided by his Spirit; but ſhews, that the natural man is in a perpetual enmity againſt God, without any poſſibility of being reconcil'd to him, unleſs by the deſtruction of the old Man, and the regenerating or renewing him thro the Spirit of Grace. There being no footſteps of this in our Author's Book, he and his Maſter *Heylin* may have differ'd from the Apoſtle, referring that Propenſity of Nature to God, which he declares to be utter enmity againſt him; and we may conclude, that this Propenſity, however general it may be, cannot be attributed to God as the Author of Nature, ſince it cannot be more general than the Corruptions into which we are fallen.

SECT. IX.

The Government inſtituted by God over the Iſraelites *was Ariſtocratical.*

NOtwithſtanding all this, our Author is reſolv'd that Monarchy muſt be from God: *What form of Government*, ſays he, *God ordain'd by his Authority, may be gather'd by that Commonwealth which he inſtituted amongſt the* Hebrews; *which was not Ariſtocratical, as* Calvin *ſays, but plainly Monarchical.* I may in as few words deny the Government ſet up by God to have bin Monarchical, as he aſſerts it; but finding ſuch Language ordinarily to proceed from a mixture of folly, impudence and pride, I chuſe rather to ſhew upon what I ground my Opinions, than nakedly to deliver them; moſt eſpecially, when by inſiſting upon the Government inſtituted by God over his People, he refers us to the Scripture. And I do this the more boldly, ſince I follow *Calvin*'s Expoſition, and believe that he having bin highly eſteem'd for his Wit, Judgment, and Learning, by ſuch as were endow'd with the like, and reverenc'd as a glorious Servant of God, might, if he were now alive, comfort himſelf, tho he had the misfortune to fall under the cenſures of *Filmer* and his followers. 'Tis probable he gave ſome Reaſons for his Opinions; but our Author having maliciouſly conceal'd 'em, and I not having leaſure at preſent to examin all his Writings to find 'em, muſt content my ſelf with ſuch as my ſmall underſtanding may ſuggeſt, and ſuch as I have found in approved Authors.

In the firſt place I may ſafely ſay, he was not alone of that opinion: *Joſephus*, *Philo*, and *Moſes Maimonides*, with all the beſt of the Jewiſh and Chriſtian Authors, had long before deliver'd the ſame. *Joſephus* ſays, that *Saul*'s firſt Sin by which he fell, was, *that he took away the Ariſtocracy*; which he could not do if it had never bin eſtabliſh'd. *Philo* imputes the inſtitution of Kingly Government, as it was in *Iſrael*, neither

Joſ. Ant. Jud.

to God nor his Word, but to the fury of the ſinful People. *Abarbenel* ſays, it proceeded from their delight in the Idolatry to which their Neighbours were addicted, and which could be upheld only by a Government, in practice and principle contrary to that which God had inſtituted. *Maimonides* frequently ſays the ſame thing, grounded upon the words of *Hoſea, I gave them Kings in my Wrath*; and whoſoever will call that a divine Inſtitution, may give the ſame name to Plagues or Famines, and induce a neceſſity incumbent upon all men to go and ſearch the one where they may find it, and to leave their Lands for ever uncultivated that they may be ſure of the other: which being too beſtial to be aſſerted by a man, I may ſafely ſay the *Hebrew* Kings were not inſtituted by God, but given as a puniſhment of their Sin, who deſpis'd the Government he had inſtituted: and the above-mention'd Authors agree in the ſame thing, calling the Peoples deſire to have a King, furious, mad, wicked, and proceeding from their love to the Idolatry of their Neighbours, which was ſuted to their Government; both which were inconſiſtent with what God had eſtabliſh'd over his own People. SECT. 9. Abar. in 1 Sam. 8. Maim. More-Nevochim.

But waving the opinions of men, 'tis good to ſee what we can learn from the Scripture, and inquire if there be any Precept there expreſly commanding them to make a King; or any Example that they did ſo whilſt they continu'd obedient to the Word of God; or any thing from whence we may reaſonably infer they ought to have done it: all which, if I miſtake not, will be found directly contrary.

The only Precept that we find in the Law concerning Kings, is that of *Deut.* 17. already mention'd; and that is not a Command to the People to make, but Inſtructions what manner of King they ſhould make if they deſir'd to have one: There was therefore none at all.

Examples do as little favour our Author's Aſſertions. *Moſes, Joſhua*, and the other Judges, had not the name or power of Kings: They were not of the Tribe to which the Scepter was promis'd: They did not tranſmit the Power they had to their Children, which in our Adverſary's opinion is a Right inſeparable from Kings; and their Power was not continu'd by any kind of Succeſſion, but created occaſionally, as need requir'd, according to the Vertues diſcover'd in thoſe who were rais'd by God to deliver the Nation in the time of their diſtreſs; which being done, their Children lay hid among the reſt of the People. Thus were *Ehud, Gideon, Jephtha*, and others ſet up: *Whoſoever will give battel* (ſay the Princes and People of *Gilead*) *to the Children of* Ammon, *ſhall be head over the Inheritance of* Gilead: and finding *Jephtha* to be ſuch a man as they ſought, they made him their Chief, and all *Iſrael* follow'd them. When *Othniel* had ſhew'd his Valour in taking *Kiriath Sepher*, and delivering his Brethren from *Cuſhan-Riſhathaim*, he was made Judg: When *Ehud* had kill'd *Eglon*; when *Shamgar* and *Samſon* had deſtroy'd great numbers of the *Philiſtins*; and when *Gideon* had defeated the *Midianites*, they were fit to be advanc'd above their Brethren. Theſe Dignitys were not inherent in their Perſons or Familys, but confer'd upon them; nor confer'd, that they might be exalted in Riches and Glory, but that they might be Miniſters of Good to the People. This may juſtify *Plato*'s opinion, that if one man be found incomparably to excel all others in the Vertues that are beneficial to Civil Societys, he ought to be advanc'd above all: but I think it will be hard from thence to deduce an Argument in favour of ſuch a Monarchy as is neceſſarily to deſcend to the next in Blood, whether Man, Woman, or Child, without any conſideration of Judg. 10.

Vertue,

CHAP. II.

Vertue, Age, Sex, or Ability; and that failing, it can be of no uſe to our Author. But whatever the dignity of a *Hebrew* Judg was, and howſoever he was rais'd to that Office, it certainly differ'd from that of a King. *Gideon* could not have refus'd to be a King when the People would have made him ſo, if he had bin a King already; or that God from the beginning had appointed they ſhould have one: The Elders and People could not have ask'd a King of *Samuel*, if he had bin King; and he could not without impiety have bin diſpleas'd with them for asking ſuch a one as God had appointed; neither would God have ſaid to him, *They have not rejected thee, but they have rejected me that I ſhould not reign over them*, if he had ordain'd what they deſir'd.

1 Sam. 8.

They did not indeed reject God with their Mouths: They pretended to uſe the liberty he had given them to make a King; but would have ſuch a one as he had forbidden: They drew near to him with their Lips, but their Hearts were far from him; and he ſeeing their Hypocriſy, ſeverely chaſtis'd 'em in granting their ill conceiv'd requeſt; and foretold the Miſerys that ſhould thereupon befal 'em, from which he would not deliver 'em, tho they ſhould cry to him by reaſon of what they ſuffer'd from their King; He was their Creature, and the miſchiefs thereby brought upon them were the fruits of their own labour.

This is that which our Author calls God's inſtitution of Kings; but the Prophet explains the matter much better, *I gave them Kings in my anger, and took them away in my wrath:* in deſtroying them God brought deſolation upon the people that had ſinn'd in asking for them, and following their example in all kind of Wickedneſs. This is all that our Author has to boaſt of: but God who acknowledges thoſe works only to be his own, which proceed from his goodneſs and mercy to his People, diſowns this; *Iſrael hath caſt off the thing that is good* (even the Government that he had eſtabliſh'd) *the Enemy ſhall purſue him: They have ſet up Kings, but not by me; and Princes, but I know them not.* As if he ſought to juſtify the ſeverity of his Judgments brought upon them by the wickedneſs of their Kings, that they, not he, had ordain'd.

Hoſ. 13.

Hoſ. 8.

Having ſeen what Government God did not ordain, it may be ſeaſonable to examin the Nature of the Government which he did ordain; and we ſhall eaſily find that it conſiſted of three parts, beſides the Magiſtrats of the ſeveral Tribes and Citys. They had a chief Magiſtrat, who was call'd Judg or Captain, as *Joſhua*, *Gideon*, and others; a Council of ſeventy choſen men; and the General Aſſemblys of the People.

Numb. 11.

The firſt was merely occaſional, like to the Dictators of *Rome:* and as the *Romans* in times of danger frequently choſe ſuch a Man as was much eſteem'd for Valour and Wiſdom, God's peculiar People had a peculiar regard to that Wiſdom and Valour which was accompanied with his Preſence, hoping for deliverance only from him.

The ſecond is known by the name of the Great *Sanhedrin*, which being inſtituted by *Moſes* according to the command of God, continu'd, till they were all ſave one ſlain by *Herod.* And the third part, which is the Aſſembly of the People, was ſo common, that none can be ignorant of it, but ſuch as never look'd into the Scripture. When the Tribes of *Reuben*, *Gad*, and half that of *Manaſſeh* had built an Altar on the ſide of *Jordan*, *The whole Congregation of the Children of* Iſrael *gather'd together at* Shiloh *to go up to war againſt them, and ſent* Phineas *the Son of* Eleazer, *and with him ten Princes*, &c. This was the higheſt and moſt important action that could concern a People, even War or Peace, and that not

Joſh. 22.

with

with Strangers, but their own Brethren. *Joſhua* was then alive: The Elders never fail'd: yet this was not tranſacted by him or them, but by the collected body of the People; *for They ſent Phineas.* This Democratical Embaſſy was Democratically receiv'd: It was not directed to one Man, but to all the Children of *Reuben*, *Gad*, and *Manaſſeh*, and the Anſwer was ſent by them all; which being pleaſing to *Phineas*, and the ten that were with him, they made their report to the Congregation, and all was quiet. SECT. 9.

The laſt eminent Act perform'd by *Joſhua* was the calling of a like Aſſembly to *Shechem*, compos'd of Elders, Heads of Familys, Judges, Officers, and all the People, to whom he propos'd, and they agreeing made a Covenant before the Lord. Joſ. 24.

Joſhua being dead, the Proceedings of every Tribe were grounded upon Counſels taken at ſuch Aſſemblys among themſelves for their own concerns, as appears by the Actions of *Judah*, *Simeon*, &c. againſt the *Canaanites*; and when the *Levite* complain'd that his Wife had bin forc'd by thoſe of *Gibeah*, the whole Congregation of *Iſrael* met together at *Miſpeth* from all parts, *even from* Dan *to* Beerſheba, as one man, and there reſolv'd upon that terrible War which they made againſt the Tribe of *Benjamin*. The like Aſſembly was gather'd together for the election of *Saul*, every man was there: and tho the Elders only are ſaid to have ask'd a King of *Samuel*, they ſeem to have bin deputed from the whole Congregation; for God ſaid, *Hearken to the Voice of the People.* In the ſame manner the Tribe of *Judah*, and after that the reſt, choſe and anointed *David* to be their King. After the death of *Solomon* all *Iſrael* met together to treat with *Rehoboam*; and not receiving ſatisfaction from him, ten of the Tribes abrogated his Kingdom. Judg. 11. 1 Sam. 8. 7.

If theſe Actions were conſider'd ſingly by themſelves, *Calvin* might have given the name of a Democracy to the Hebrew Government, as well as to that of *Athens*; for without doubt they evidently manifeſt the ſupreme Power to have bin in the ſupreme manner in theſe General Aſſemblys: but the Government (as to its outward order) conſiſting of thoſe three parts, which comprehend the three ſimple *ſpecies*; and no times having bin appointed, nor occaſions ſpecify'd, upon which Judges ſhould be choſen, or theſe Aſſemblys call'd, whereas the *Sanhedrim*, which was the Ariſtocratical part, was permanent; the whole might rightly be call'd an Ariſtocracy, that part prevailing above the others: and tho *Joſephus* calls it a Theocracy, by reaſon of God's preſence with his People; yet in relation to man he calls it an Ariſtocracy, and ſays that *Saul*'s firſt Sin by which he fell from the Kingdom was, that *Gubernationem optimatum ſuſtulit*; which could not be, if they were govern'd by a Monarch before he was choſen.

Our Author taking no notice of theſe matters, firſt endeavours to prove the excellency of Monarchy from natural inſtinct; and then begging the queſtion, ſays, that God did always govern his People by Monarchy: whereas he ought in the firſt place to have obſerv'd that this inſtinct (if there be any ſuch thing) is only an irrational appetite, attributed to Beaſts, that know not why they do any thing; and is to be follow'd only by thoſe men who being equally irrational, live in the ſame ignorance: and the ſecond being prov'd to be abſolutely falſe by the expreſs words of the Scripture, *There was then no King in* Iſrael, ſeveral times repeated, and the whole ſeries of the Hiſtory, he has no other evaſion than to ſay, *That even then the* Iſraelites *were under the* Judg. 18.

Kingly

CHAP. II. *Kingly Government of the Fathers of particular Familys.*

It appears by the forementiond Text cited alſo by our Author, that in the Aſſembly of the People, gather'd together to take counſel concerning the War againſt *Benjamin*, were four hundred thouſand Footmen that drew Sword: They all aroſe together, ſaying, Not a man of us ſhall go to his Tent. *So all the men of* Iſrael *were gather'd together againſt the City.* This is repeated ſeveral times in the relation. The *Benjamites* proceeded in the like manner in preparing for their defence; and if all theſe who did ſo meet to conſult and determin were Monarchs, there were then in *Iſrael* and *Benjamin* four hundred twenty ſix thouſand ſeven hundred Monarchs or Kings, tho the Scripture ſays there was not one.

If yet our Author inſiſts upon his notion of Kingly Government, I deſire to know who were the Subjects, if all theſe were Kings; for the Text ſays, that the *whole Congregation was gather'd together as one man from* Dan *to* Beerſheba. If there can be ſo many Kings without one Subject, what becomes of the Right of *Abraham*, *Iſaac* and *Jacob*, that was to have bin devolv'd upon one Man as Heir to them, and thereby Lord of all? If every man had an equal part in that inheritance, and by virtue of it became a King, why is not the ſame eternally ſubdivided to as many men as are in the World, who are alſo Kings? If this be their natural condition, how comes it to be alter'd, till they dethrone themſelves by conſent, to ſet up one or more to have a power over them all? Why ſhould they deveſt themſelves of their natural Right to ſet up one above themſelves, unleſs in conſideration of their own good? If the 426700 Kings might retain the power in themſelves, or give it to one, why might they not give it to any ſuch number of men as ſhould beſt pleaſe themſelves, or retain it in their own hands, as they did till the days of *Saul*; or frame, limit, and direct it according to their own pleaſure? If this be true, God is the Author of Democracy; and no aſſertor of human Liberty did ever claim more than the People of God did enjoy and exerciſe at the time when our Author ſays they were under the Kingly Government; which Liberty being not granted by any peculiar conceſſion or inſtitution, the ſame muſt belong to all Mankind.

'Tis in vain to ſay the 426700 men were heads of Familys; for the Scripture only ſays, *They were Footmen that drew the Sword*, or rather all the men of *Iſrael* from *Dan* to *Beerſheba*, who were able to make War. When ſix hundred *Benjamites* did only remain of the 26700, 'tis plain that no more were left of that Tribe, their Women and Children having bin deſtroy'd in the Citys after their defeat. The next Chapter makes the matter yet more plain; for when all that were at the Congregation in *Miſpeth* were found to have ſworn, they would not give their Daughters to any of the Tribe of *Benjamin*, no *Iſraelite* was free from the Oath, but
Judg. 21. the men of *Jabeſh Gilead*, who had not bin at the Aſſembly: All the reſt of *Iſrael* was therefore comprehended; and they continuing to govern in a popular way with abſolute power, ſent twelve thouſand of their moſt valiant men to deſtroy all the Males of *Jabeſh Gilead*, and the Women that had lain by Man, reſerving the Virgins for the *Benjamites*. This is enough for my purpoſe: for the queſtion is not concerning the power that every Houſholder in *London* has over his Wife, Children and Servants; but whether they are all perpetually ſubject to one man and Family; and I intend not to ſet up their Wives, Prentices, and Children againſt them, or to diminiſh their Rights, but to aſſert them, as the gift of God and Nature, no otherwiſe to be reſtrain'd than by Laws made with their own conſent.

Reaſon failing, our Author pleaſes himſelf with terms of his own In- SECT. 9.
vention: *When the People beg'd a King of* Samuel, *they were govern'd by a Kingly power: God out of a ſpecial love and care to the Houſe of* Iſrael, *did chuſe to be their King himſelf, and did govern them at that time by his Vice-roy* Samuel *and his Sons.* The behaviour of the *Iſraelites* towards *Samuel* has bin thought proud, perverſe, and obſtinate; but the fine Court-word *begging* was never before apply'd to them; and their inſolent fury was not only ſeen againſt *Samuel*, but againſt God; *They have not rejected thee,* 1 Sam. 8.
but they have rejected me. And I think *Filmer* is the firſt who ever found that Beggars in begging did reject him of whom they beg'd: Or if they were Beggars, they were ſuch as would not be denied; for after all that *Samuel* had ſaid to diſſuade them from their wicked deſign, they ſaid,
Nay, but we will have a King. Ver. 19.

But leſt I ſhould be thought too much inclin'd to contradict our Author, I confeſs that once he has happen'd to be in the right. *God out of a ſpecial love to the Houſe of* Iſrael *choſe to be their King: He gave them Laws, preſcrib'd a Form of Government, rais'd up Men in a wonderful manner to execute it, fill'd them with his Spirit, was ever preſent when they call'd upon him: He gave them counſel in their doubts, and aſſiſtance in all their extremitys: He made a Covenant with them, and would be exalted by them.* But what is this to an earthly Monarch? Who can from hence derive a Right to any one man to play the Lord over his Brethren, or a reaſon why any Nation ſhould ſet him up? God is our Lord by right of creation, and our only Lord, becauſe he only has created us. If any other were equal to him in Wiſdom, Power, Goodneſs, and Beneficence to us, he might challenge the ſame duty from us. If growing out of our ſelves, receiving being from none, depending on no providence, we were offer'd the protection of a Wiſdom ſubject to no error, a Goodneſs that could never fail, and a Power that nothing could reſiſt; it were reaſonable for us to enter into a Covenant, ſubmit our ſelves to him, and with all the facultys of our minds to addict our ſelves to his Service. But what Right can from hence accrue to a mortal Creature like to one of us, from whom we have receiv'd nothing, and who ſtands in need of help as much as we? Who can from hence deduce an argument to perſuade us to depend upon his Wiſdom, who has as little as other men? To ſubmit to his Will who is ſubject to the ſame Frailtys, Paſſions, and Vices with the reſt of Mankind? Or to expect protection and defence from him whoſe life depends upon as ſlender threds as our own; and who can have no power but that which we confer upon him? If this cannot be done, but is of all things the moſt contrary to common ſenſe, no man can in himſelf have any right over us; we are all as free as the four hundred twenty ſix thouſand ſeven hundred Hebrew Kings: We can naturally owe allegiance to none; and I doubt whether all the luſts that have reign'd amongſt Men ſince the beginning of the World, have brought more guilt and miſery upon them than that prepoſterous and impudent pretence of imitating what God had inſtituted. When *Saul* ſet himſelf moſt violently to oppoſe the command of God, he pretended to fulfil it: When the *Jews* grew weary of God's Government, and reſolv'd to reject him, that he ſhould not reign over them, they us'd ſome of *Moſes* his words, and ask'd that King of God, whom they intended to ſet up againſt him: But this King had not bin ſet up againſt God, the People had not rejected God, and ſin'd in asking for him, if every Nation by a general Law ought to have one, or by a particular Law one had bin

CHAP. II. appointed by him over them. There was therefore no King amongſt them, nor any Law of God or Nature, particular or general, according to which they ought to have one.

SECT. X.

Ariſtotle *was not ſimply for Monarchy or againſt Popular Government; but approv'd or diſapprov'd of either according to circumſtances.*

OUR Author well obſerves that *Ariſtotle* is hardly brought to give a general opinion in favour of Monarchy, as if it were the beſt form of Government, or to ſay true, never dos it. He uſes much caution, propoſes conditions and limitations, and makes no deciſion but according to circumſtances. Men of Wiſdom and Learning are ſubject to ſuch doubts; but none ought to wonder if ſtupidity and ignorance defend *Filmer* and his Followers from them; or that their hatred to the antient Vertue ſhould give 'em an averſion to the Learning that was the Nurſe of it. Thoſe who neither underſtand the ſeveral Species of Government, nor the various Tempers of Nations, may without fear or ſhame give their opinions in favour of that which beſt pleaſes them; but wiſe men will always proportion their praiſes to the merit of the Subject, and never commend that ſimply which is good only according to circumſtances. *Ariſtotle* highly applauds Monarchy, when the Monarch has more of thoſe Vertues that tend to the good of a Commonwealth, than all they who compoſe it. This is the King mention'd in his *Ethicks*, and extol'd in his *Politicks:* He is above all by Nature, and ought not by a municipal Law to be made equal to others in Power: He ought to govern, becauſe 'tis better for a People to be govern'd by him, than to enjoy their Liberty; or rather, they do enjoy their Liberty, which is never more ſafe, than when defended by one who is a living Law to himſelf and others. Whereſoever ſuch a man appears, he ought to reign: He bears in his Perſon the Divine Character of a Sovereign: God has rais'd him above all; and ſuch as will not ſubmit to him, ought to be accounted Sons of *Belial*, brought forth and ſlain. But he dos withal confeſs, that if no ſuch man be found, there is no natural King: All the Prerogatives belonging to him vaniſh, for want of one who is capable of enjoying them. He lays ſevere Cenſures upon thoſe who not being thus qualified take upon them to govern men, equal to or better than themſelves; and judges the aſſumption of ſuch Powers by perſons not naturally adapted to the adminiſtration of them, as barbarous Uſurpations, which no Law or Reaſon can juſtify; and is not ſo much tranſported with the excellency of this true King, as not to confeſs he ought to be limited by Law: *Qui legem præeſſe jubet, videtur jubere præeſſe Deum & Leges: qui autem hominem præeſſe jubet, adjungit & beſtiam; libido quippe talis eſt, atque obliquos agit, etiam viros optimos qui ſunt in poteſtate, ex quo mens atque appetitus Lex eſt.* This agrees with the words of the beſt King that is known to have bin in the world, proceeding, as is moſt probable, from a ſenſe of the Paſſions that reign'd in his own breaſt; *Man being in honour, has no underſtanding, but is like to the beaſt that periſhes.* This ſhews that ſuch as deny that Kings do reign

Ariſt. Polit. l. 3. c. 12.

by Law, or that Laws may be put upon Kings, do equally ſet themſelves againſt the opinions of wiſe Men, and the Word of God: and our Author having found that Learning made the *Grecians* ſeditious, may reaſonably doubt that Religion may make others worſe; ſo as none will be fit Subjects of his applauded Government, but thoſe who have neither Religion nor Learning; and that it cannot be introduc'd till both be extinguiſh'd. SECT. 10.

Ariſtotle having declar'd his mind concerning Government, in the Books expreſly written on that Subject, whatſoever is ſaid by the by in his Moral Diſcourſes, muſt be refer'd to and interpreted by the other: And if he ſaid (which I do not find) that Monarchy is the beſt Form of Government, and a Popular State the worſt, he cannot be thought to have meant otherwiſe, than that thoſe Nations were the moſt happy, who had ſuch a Man as he thinks fit to be made a Monarch; and thoſe the moſt unhappy, who neither had ſuch a one, nor a few, that any way excel'd the reſt; but all being equally brutiſh, muſt take upon 'em the Government they were unable to manage: for he dos no where admit any other end of Juſt and Civil Government, than the good of the Governed; nor any advantage due to one or a few perſons, unleſs for ſuch Vertues as conduce to the common good of the Society. And as our Author thinks Learning makes men ſeditious, *Ariſtotle* alſo acknowledges, that thoſe who have Underſtanding and Courage, which may be taken for Learning, or the effect of it, will never endure the Government of one or a few that do not excel them in Vertue: but no where diſpraiſes a Popular Government, unleſs the Multitude be compos'd of ſuch as are barbarous, ſtupid, leud, vicious, and uncapable of the Happineſs for which Governments are inſtituted; who cannot live to themſelves, but like a herd of Beaſts muſt be brought under the dominion of another; or who, having among themſelves ſuch an excellent Perſon as is above deſcrib'd, will not ſubmit to him, but either kill, baniſh, or bring him to be equal with others, whom God had made to excel all. I do not trouble my ſelf, or the Reader, with citing here and there a Line out of his Books, but refer my ſelf to thoſe who have perus'd his Moral and Political Writings, ſubmitting to the ſevereſt Cenſures, if this be not the true Senſe of 'em; and that Vertue alone, in his opinion, ought to give the preheminence. And as *Ariſtotle* following the wiſe Men of thoſe times, ſhews us how far Reaſon, improv'd by Meditation, can advance in the knowledg and love of that which is truly good; ſo we may in *Filmer* guided by *Heylin*, ſee an Example of corrupted Chriſtians, who extinguiſhing the Light of Religion by their Vices, and degenerating into Beaſts (whilſt they endeavour to ſupport the perſonal Intereſt of ſome men, who are rais'd to Dignitys by the conſent of Nations, or by unwarrantable ways and means) would caſt all the Power into the hands of ſuch as happen to be born in certain Familys; as if Governments had not bin inſtituted for the common good of Nations, but only to increaſe their Pride, and foment their Vices; or that the care and direction of a great People were ſo eaſy a work, that every Man, Woman, or Child, how young, weak, fooliſh or wicked ſoever, may be worthy of it, and able to manage it.

SECT. XI.

Liberty produces Vertue, Order and Stability: Slavery is accompanied with Vice, Weakneſs and Miſery.

OUR Author's judgment, as well as inclinations to Vertue, are manifeſted in the preference he gives to the manners of the *Aſſyrians* and other Eaſtern Nations, before the *Grecians* and *Romans:* Whereas the firſt were never remarkable for any thing, but Pride, Leudneſs, Treachery, Cruelty, Cowardice, Madneſs, and hatred to all that is good; whilſt the others excel'd in Wiſdom, Valour, and all the Vertues that deſerve imitation. This was ſo well obſerv'd by St. *Auguſtin*, that he brings no ſtronger Argument to prove, that God leaves nothing that is good in man unrewarded, than that he gave the dominion of the beſt part of the World to the *Romans*, who in moral Vertues excel'd all other Nations. And I think no Example can be alledg'd of a Free People that has ever bin conquer'd by an Abſolute Monarch, unleſs he did incomparably ſurpaſs them in Riches and Strength; whereas many great Kings have bin overthrown by ſmall Republicks: and the ſucceſs being conſtantly the ſame, it cannot be attributed to Fortune, but muſt neceſſarily be the production of Vertue and good Order. *Machiavel* diſcourſing of theſe matters, finds Vertue to be ſo eſſentially neceſſary to the eſtabliſhment and preſervation of Liberty, that he thinks it impoſſible for a corrupted People to ſet up a good Government, or for a Tyranny to be introduc'd if they be vertuous; and makes this * Concluſion, *That where the Matter* (that is, the body of the People) *is not corrupted, Tumults and Diſorders do no hurt; and where it is corrupted, good Laws do no good:* Which being confirm'd by Reaſon and Experience, I think no wiſe man has ever contradicted him.

De Civ. Dei.

But I do not more wonder that *Filmer* ſhould look upon Abſolute Monarchy to be the Nurſe of Vertue, tho we ſee they did never ſubſiſt together, than that he ſhould attribute Order and Stability to it; whereas Order principally conſiſts in appointing to every one his right Place, Office or Work; and he lays the whole weight of the Government upon one Perſon, who very often dos neither deſerve, nor is able to bear the leaſt part of it. *Plato*, *Ariſtotle*, *Hooker*, and (I may ſay in ſhort) all wiſe men have held, that Order requir'd that the wiſeſt, beſt, and moſt valiant ſhould be plac'd in the Offices where Wiſdom, Vertue and Valour are requiſit. If common ſenſe did not teach us this, we might learn it from the Scripture. When God gave the conduct of his People to *Moſes*, *Joſhua*, *Samuel*, and others, he endow'd them with all the Vertues and Graces requir'd for the right performance of their Duty. When the *Iſraelites* were oppreſt by the *Midianites*, *Philiſtins* and *Ammonites*, they expected help from the moſt viſe and valiant. When *Hannibal* was at the Gates of *Rome*, and had fill'd *Italy* with Fire and Blood; or when the *Gauls* overwhelm'd that Country with their multitudes and fury, the Senat and People of *Rome* put themſelves under the conduct of *Ca-*

* Si puo far queſta concluſione, che dove la materia non e corrotta, i tumulti ed altri ſcandali non nuocono: là dove la e corrotta le buone Leggi non giovano. *Machiav.* Diſc. ſopra *T. Livio*, lib. 1.

millus, *Manlius*, *Fabius*, *Scipio*, and the like; and when they fail'd to chuſe ſuch as were fit for the work to be done, they receiv'd ſuch defeats as convinc'd 'em of their Error. But if our Author ſay true, Order requir'd that the Power of defending the Country ſhould have bin annex'd as an Inheritance to one Family, or left to him that could get it, and the exerciſe of all Authority committed to the next in Blood, tho the weakeſt of Women, or the baſeſt of Men. SECT. II.

The like may be ſaid of judging, or doing of Juſtice; and 'tis abſurd to pretend that either is expected from the Power, not the Perſon of the Monarch; for experience dos too well ſhew how much all things halt in relation to Juſtice or Defence, when there is a defect in him that ought to judg us, and to fight our Battels. But of all things this ought leaſt to be alledg'd by the Advocats for abſolute Monarchy, who deny that the Authority can be ſeparated from the Perſon, and lay it as a fundamental Principle, that whoſoever has it may do what he pleaſes, and be accountable to no man.

Our Author's next work is to ſhew, that Stability is the effect of this good Order; but he ought to have known, that Stability is then only worthy of praiſe, when it is in that which is good. No man delights in ſickneſs or pain, becauſe it is long, or incurable; nor in ſlavery and miſery, becauſe it is perpetual: much leſs will any man in his ſenſes commend a permanency in vice and wickedneſs. He muſt therefore prove, that the Stability he boaſts of is in things that are good, or all that he ſays of it ſignifies nothing.

I might leave him here with as little fear, that any man who ſhall eſpouſe his Quarrel, will ever be able to remove this Obſtacle, as that he himſelf ſhould riſe out of his Grave and do it. But I hope to prove, that of all things under the Sun, there is none more mutable or unſtable than abſolute Monarchy; which is all that I diſpute againſt, profeſſing much veneration for that which is mix'd, regulated by Law, and directed to the Publick Good.

This might be prov'd by many Arguments, but I ſhall confine my ſelf to two; the one drawn from Reaſon, the other from matters of Fact.

Nothing can be call'd ſtable, that is not ſo in Principle and Practice, in which reſpect human Nature is not well capable of Stability; but the utmoſt deviation from it that can be imagin'd, is, when ſuch an Error is laid for a Foundation as can never be corrected. All will confeſs, that if there be any ſtability in man, it muſt be in Wiſdom and Vertue, and in thoſe Actions that are thereby directed; for in weakneſs, folly and madneſs, there can be none. The Stability therefore that we ſeek, in relation to the exerciſe of Civil and Military Powers, can never be found, unleſs care be taken that ſuch as exerciſe thoſe Powers, be endow'd with the Qualitys that ſhould make them ſtable. This is utterly repugnant to our Author's Doctrin: He lays for a Foundation, That the Succeſſion goes to the next in Blood, without diſtinction of Age, Sex, or perſonal Qualitys; whereas even he himſelf could not have the impudence to ſay, that Children, and Women (where they are admitted) or Fools, Madmen, and ſuch as are full of all wickedneſs, do not come to be the Heirs of reigning Familys, as well as of the meaneſt. The Stability therefore that can be expected from ſuch a Government, either depends upon thoſe who have none in themſelves, or is refer'd wholly to Chance, which is directly oppoſite to Stability.

This

CHAP. II.

This would be the caſe, tho it were (as we ſay) an even Wager, whether the Perſon would be fit or unfit, and that there were as many men in the world able, as unable to perform the Duty of a King; but Experience ſhewing that among many millions of men, there is hardly one that poſſeſſes the Qualitys requir'd in a King, 'tis ſo many to one, that he upon whom the Lot ſhall fall, will not be the man we ſeek, in whoſe Perſon and Government there can be ſuch a ſtability as is aſſerted. And that failing, all muſt neceſſarily fail; for there can be no ſtability in his Will, Laws or Actions, who has none in his Perſon.

That we may ſee whether this be verify'd by Experience, we need not ſearch into the dark relations of the *Babylonian* and *Aſſyrian* Monarchys: Thoſe rude Ages afford us little inſtruction; and tho the fragments of Hiſtory remaining do ſufficiently ſhow, that all things there were in perpetual fluctuation, by reaſon of the madneſs of their Kings, and the violence of thoſe who tranſported the Empire from one Place or Family to another, I will not much rely upon them, but ſlightly touching ſome of their Storys, paſs to thoſe that are better known to us.

The Kings of thoſe Ages ſeem to have liv'd rather like Beaſts in a Foreſt, than Men join'd in Civil Society: they follow'd the Example of *Nimrod* the mighty Hunter; Force was the only Law that prevail'd, the ſtronger devour'd the weaker, and continu'd in Power till ejected by one of more ſtrength or better fortune. By this means the race of *Ninus* was deſtroy'd by *Belochus: Arbaces* rent the Kingdom aſunder, and took *Media* to himſelf: *Morodach* extinguiſh'd the Race of *Belochus*, and was made King: *Nabuchodonoſor* like a Flood overwhelm'd all for a time, deſtroy'd the Kingdoms of *Jeruſalem* and *Egypt*, with many others, and found no obſtacle, till his rage and pride turn'd to a moſt beſtial madneſs: And the *Aſſyrian* Empire was wholly aboliſh'd at the death of his Grandchild *Belſhazzar*; and no Stability can be found in the reigns of thoſe great Kings, unleſs that name be given to the Pride, Idolatry, Cruelty, and Wickedneſs in which they remain'd conſtant. If we examin matters more diſtinctly, we ſhall find that all things vari'd according to the humour of the Prince. Whilſt *Pharaoh* liv'd, who had receiv'd many ſignal Services from *Joſeph*, the *Iſraelites* were well us'd: but when another roſe up who knew him not, they were perſecuted with all the extremitys of Injuſtice and Cruelty, till the furious King perſiſting in his deſign of exterminating them, brought deſtruction upon himſelf and the Nation. Where the like Power has prevail'd, it has ever produc'd the like effects. When ſome great men of *Perſia* had perſuaded *Darius*, that it was a fine thing to command that no man for the ſpace of thirty days ſhould make any Petition to God or Man, but to the King only, *Daniel* the moſt wiſe and holy Man then in the world muſt be thrown to the Lions. When God had miraculouſly ſav'd him, the ſame Sentence was paſs'd againſt the Princes of the Nation. When *Haman* had fill'd *Ahaſuerus* his ears with Lies, all the *Jews* were appointed to be ſlain; and when the fraud of that Villain was detected, leave was given them, with the like precipitancy, to kill whom they pleas'd. When the *Iſraelites* came to have Kings, they were ſubject to the ſame Storms, and always with their Blood ſuffer'd the Penalty of their Princes madneſs. When one kind of Fury poſſeſt *Saul*, he ſlew the Prieſts, perſecuted *David*, and would have kill'd his brave Son *Jonathan:* When he fell under another, he took upon him to do the Prieſt's Office, pretended to underſtand the Word of God better than *Samuel*, and ſpar'd thoſe that God had commanded him to deſtroy:

Dan. 6.

Upon another whimſy he kill'd the *Gibeonites*, and never reſted from finding new Inventions to vex the People, till he had brought many thouſands of them to periſh with himſelf and his Sons on Mount *Gilboa*. We do not find any King, in Wiſdom, Valour and Holineſs, equal to *David*; and yet he falling under the temptations that attend the greateſt Fortunes, brought Civil Wars and a Plague upon the Nation. When *Solomon*'s heart was drawn away by ſtrange Women, he fill'd the Land with Idols, and oppreſt the People with intolerable Tributes. *Rehoboam*'s Folly made that Rent in the Kingdom which could never be made up. Under his Succeſſors the people ſerv'd God, *Baal* or *Aſhtaroth*, as beſt pleas'd him who had the Power; and no other marks of Stability can be alledg'd to have bin in that Kingdom, than the conſtancy of their Kings in the practice of Idolatry, their cruelty to the Prophets, hatred to the *Jews*, and civil Wars producing ſuch Slaughters as are reported in few other Storys: The Kingdom was in the ſpace of about two hundred years poſſeſt by nine ſeveral Familys, not one of 'em getting poſſeſſion otherwiſe than by the ſlaughter of his Predeceſſor, and the extinction of his Race; and ended in the Bondage of the ten Tribes, which continues to this day. SECT. II.

He that deſires farther proofs of this Point, may ſeek 'em in the Hiſtorys of *Alexander* of *Macedon*, and his Succeſſors: He ſeems to have bin endow'd with all the Vertues that Nature improv'd by Diſciplin did ever attain, ſo that he is believ'd to be the man meant by *Ariſtotle*, who on account of the excellency of his Vertues was by Nature fram'd for a King; and *Plutarch* aſcribes his Conqueſts rather to thoſe, than to his Fortune. But even that Vertue was overthrown by the Succeſſes that accompanied it: He burnt the moſt magnificent Palace of the world in a frolick, to pleaſe a mad drunken Whore: Upon the moſt frivolous ſuggeſtions of Eunuchs and Raſcals, he kill'd the beſt and braveſt of his Friends; and his Valour, which had no equal, not ſubſiſting without his other Vertues, periſh'd when he became leud, proud, cruel and ſuperſtitious; ſo as it may be truly ſaid, he died a Coward. His Succeſſors did not differ from him: When they had kill'd his Mother, Wife and Children, they exercis'd their fury againſt one another; and tearing the Kingdom to pieces, the Survivors left the Sword as an Inheritance to their Familys, who periſh'd by it, or under the weight of the *Roman* Chains. Plut. in Vit. Alex.

When the *Romans* had loſt that Liberty which had bin the Nurſe of their Vertue, and gain'd the Empire in lieu of it, they attain'd to our Author's applauded Stability. *Julius* being ſlain in the Senat, the firſt Queſtion was, whether it could be reſtor'd, or not? And that being decided by the Battel of *Philippi*, the Conquerors ſet themſelves to deſtroy all the eminent men in the City, as the beſt means to eſtabliſh the Monarchy. *Auguſtus* gain'd it by the death of *Antonius*, and the corruption of the Soldiers; and he dying naturally, or by the fraud of his Wife, the Empire was transfer'd to her Son *Tiberius*; under whom the miſerable People ſuffer'd the worſt effects of the moſt impure Luſt and inhuman Cruelty: He being ſtifled, the Government went on with much uniformity and ſtability; *Caligula*, *Claudius*, *Nero*, *Galba*, *Otho*, *Vitellius* regularly and conſtantly did all the miſchief they could, and were not more like to each other in the Villanys they committed, than in the Deaths they ſuffer'd. *Veſpaſian*'s more gentle Reign did no way compenſate the Blood he ſpilt to attain the Empire: And the Benefits receiv'd from *Titus* his ſhort-liv'd Vertue, were infinitly overbalanc'd by the deteſtable

CHAP. II.

teſtable Vices of his Brother *Domitian*, who turn'd all things into the old Channel of Cruelty, Luſt, Rapine and Perfidiouſneſs. His ſlaughter gave a little breath to the gaſping periſhing World; and men might be vertuous under the Government of *Nerva*, *Trajan*, *Antoninus*, *Aurelius*, and a few more; tho even in their time Religion was always dangerous. But when the Power fell into the hands of *Commodus*, *Heliogabalus*, *Caracalla*, and others of that ſort, nothing was ſafe but obſcurity, or the utmoſt exceſſes of leudneſs and baſeneſs. However, whilſt the Will of the Governor paſs'd for a Law, and the Power did uſually fall into the hands of ſuch as were moſt bold and violent, the utmoſt ſecurity that any man could have for his Perſon or Eſtate, depended upon his temper; and Princes themſelves, whether good or bad, had no longer Leaſes of their lives, than the furious and corrupted Soldiers would give them; and the Empire of the World was changeable, according to the Succeſs of a Battel.

Matters were not much mended when the Emperors became Chriſtians: Some favour'd thoſe who were call'd *Orthodox*, and gave great Revenues to corrupt the Clergy. Others ſupported *Arianiſm*, and perſecuted the Orthodox with as much aſperity as the Pagans had done. Some revolted, and ſhew'd themſelves more fierce againſt the profeſſors of Chriſtianity, than they that had never had any knowledg of it. The World was torn in pieces amongſt them, and often ſuffer'd as great miſerys by their ſloth, ignorance and cowardice, as by their fury and madneſs, till the Empire was totally diſſolv'd and loſt. That which under the weakneſs and irregularity of a popular Government, had conquer'd all from the *Euphrates* to *Britain*, and deſtroy'd the Kingdoms of *Aſia*, *Egypt*, *Macedon*, *Numidia*, and a multitude of others, was made a Prey to unknown barbarous Nations, and rent into as many pieces as it had bin compos'd of, when it enjoy'd the Stability that accompanys Divine and Abſolute Monarchy.

The like may be ſaid of all the Kingdoms in the World: they may have their ebbings and flowings according to the Vertues or Vices of Princes or their Favorites; but can never have any Stability, becauſe there is, and can be none in them. Or if any Exception may be brought againſt this Rule, it muſt be of thoſe Monarchys only which are mix'd and regulated by Laws, where Diets, Parliaments, Aſſemblys of Eſtates, or Senats, may ſupply the defects of a Prince, reſtrain him if he prove extravagant, and reject ſuch as are found to be unworthy of their Office, which are as odious to our Author and his Followers, as the moſt popular Governments, and can be of no advantage to his Cauſe.

There is another ground of perpetual Fluctuation in Abſolute Monarchys; or ſuch as are grown ſo ſtrong, that they cannot be reſtrain'd by Law, tho according to their Inſtitution they ought to be, diſtinct from, but in ſome meaſure relating to the Inclinations of the Monarch, that is, the impulſe of Miniſters, Favorites, Wives or Whores, who frequently govern all things according to their own Paſſions or Intereſts. And tho we cannot ſay who were the Favorites of every one of the *Aſſyrian* or *Egyptian* Kings, yet the Examples before-mention'd of the different method follow'd in *Egypt* before and after the death of *Joſeph*, and in *Perſia* whilſt the idolatrous Princes, and *Haman*, or *Daniel*, *Eſther* and *Mordecai* were in credit; the violent Changes happening thereupon, give us reaſon to believe the like were in the times of other Kings: and if we examin the Hiſtorys of latter Ages, and the Lives of Princes that are more

exactly

exactly known, we ſhall find that Kingdoms are more frequently ſway'd by thoſe who have Power with the Prince, than by his own Judgment: So that whoſoever has to deal with Princes concerning Foreign or Domeſtick Affairs, is oblig'd more to regard the humour of thoſe Perſons, than the moſt important Intereſts of a Prince or People. SECT. II.

I might draw too much envy upon my ſelf, if I ſhould take upon me to cite all the Examples of this kind that are found in modern Hiſtorys, or the Memoirs that do more preciſely ſhew the Temper of Princes, and the ſecret Springs by which they were mov'd. But as thoſe who have well obſerv'd the management of Affairs in *France* during the Reigns of *Francis* the Firſt, *Henry* the Second, *Francis* the Second, *Charles* the Ninth, *Henry* the Third, *Henry* the Fourth, and *Lewis* the Thirteenth, will confeſs, that the Intereſts of the Dukes of *Montmorency* and *Guiſe*, Queen *Katherine de Medicis*, the Duke of *Epernon*, *La Voſſeuſe*, *Madame de Guiche*, *de Gabriele*, *d' Entragues*, the *Marechal d' Ancre*, the Conſtable *de Luines*, and the Cardinal *de Richelieu*, were more to be conſider'd by thoſe who had any publick or private Buſineſs to treat at Court, than the Opinions of thoſe Princes, or the moſt weighty Concernments of the State; ſo it cannot be denied, that other Kingdoms where Princes legally have, or wrongfully uſurp the like Power, are govern'd in the like manner; or if it be, there is hardly any Prince's Reign that will not furniſh abundant proof of what I have aſſerted.

I agree with our Author, that *good Order and Stability produce Strength.* If Monarchy therefore excel in them, Abſolute Monarchys ſhould be of more ſtrength than thoſe that are limited, according to the proportion of their Riches, extent of Territory, and number of People that they govern; and thoſe limited Monarchys in the like proportion more ſtrong than popular Governments or Commonwealths. If this be ſo, I wonder how a few of *thoſe giddy Greeks who*, according to our Author, *had learning enough only to make them ſeditious*, came to overthrow the vaſt Armys of the *Perſians* as often as they met with 'em; and ſeldom found any other difficulty than what aroſe from their own Countrymen, who ſometimes ſided with the Barbarians. Seditions are often rais'd by a little prating; but when one Man was to fight againſt fifty, or a hundred, as at the Battels of *Salamis*, *Platea*, *Marathon*, and others, then Induſtry, Wiſdom, Skill and Valour were requir'd; and if their Learning had not made 'em to excel in thoſe Vertues, they muſt have bin overwhelm'd by the prodigious multitudes of their Enemys. This was ſo well known to the *Perſians*, that when *Cyrus* the younger prepar'd to invade his Brother *Artaxerxes*, he brought together indeed a vaſt Army of *Aſiaticks*; but chiefly relied upon the Counſel and Valour of ten thouſand *Grecians*, whom he had engag'd to ſerve him. Theſe giddy heads, accompanied with good hands, in the great Battel near *Babylon*, found no reſiſtance from *Artaxerxes* his Army; and when *Cyrus* was kill'd by accident in the purſuit of the Victory they had gain'd, and their own Officers treacherouſly murder'd, they made good their retreat into *Greece* under the conduct of *Xenophon*, in deſpite of above four hundred thouſand Horſe and Foot, who endeavour'd to oppoſe them. They were deſtitute of Horſe, Mony, Proviſions, Friends and all other help, except what their Wiſdom and Valour furniſh'd them; and thereupon relying, they paſs'd over the Bellys of all the Enemys that ventur'd to appear againſt them in a march of a thouſand miles. Theſe things were perform'd in the weakneſs of popular confuſion; but *Ageſilaus* not being ſenſible of ſo great defects, accompanied only

Plut. vit. Artax.

CHAP. II. with ſix and thirty *Spartans*, and ſuch other Forces as he could raiſe upon his perſonal credit, adventur'd without Authority or Mony to undertake a War againſt that great King *Artaxerxes*; and having often beaten *Pharnabazus* and *Tiſſaphernes* his Lieutenants, was preparing to aſſault him in the heart of his Kingdom, when he was commanded by the *Ephori* to return for the defence of his own Country.

It may in like manner appear ſtrange, that *Alexander* with the Forces of *Greece*, much diminiſh'd by the *Phocean*, *Peloponneſian*, *Theban*, and other inteſtin Wars, could overthrow all the Powers of the Eaſt, and conquer more Provinces than any other Army ever ſaw; if ſo much order and ſtability were to be found in abſolute Monarchys, and if the Liberty in which the *Grecians* were educated did only fit them for Seditions: And it would ſeem no leſs aſtoniſhing, that *Rome* and *Greece*, whilſt they were free, ſhould furniſh ſuch numbers of men excelling in all moral Vertues, to the admiration of all ſucceeding Ages; and thereby become ſo powerful that no Monarchs were able to reſiſt them; and that the ſame Countrys ſince the loſs of their Liberty, have always bin weak, baſe, cowardly and vicious, if the ſame Liberty had not bin the Mother and Nurſe of their Vertue, as well as the root of their Power.

It cannot be ſaid that *Alexander* was a Monarch in our Author's ſenſe; for the power of the *Macedonian* Kings was ſmall. *Philip* confeſt the People were Freemen, and his Son found them to be ſo, when his Fortune had overthrown his Vertue, and he fell to hate and fear that generoſity of Spirit which it creates. He made his Conqueſts by it, and lov'd it as long as he deſerv'd to be lov'd. His Succeſſors had the ſame fortune: When their Hearts came to be fill'd with Barbarick Pride, and to delight only in rendring men Slaves, they became weak and baſe, and were eaſily overthrown by the *Romans*, whoſe Vertue and Fortune did alſo periſh with their Liberty. All the Nations they had to deal with, had the ſame fate. They never conquer'd a Free People without extreme difficulty: They receiv'd many great defeats, and were often neceſſitated to fight for their Lives againſt the *Latins*, *Sabins*, *Tuſcans*, *Samnites*, *Carthaginians*, *Spaniards*; and in the height of their Power found it a hard work to ſubdue a few poor *Etolians:* But the greateſt Kings were eaſily overcome. When *Antiochus* had inſolently boaſted that he would cover *Greece* and *Italy* with the multitude of his Troops, *Quintius Flaminius* ingeniouſly compar'd his Army of *Perſians*, *Chaldeans*, *Syrians*, *Meſopotamians*, *Cappadocians*, *Arabians*, and other baſe *Aſiatic* Slaves, to a Supper ſet before him by a Grecian Freind, which ſeeming to be of ſeveral ſorts of Veniſon, was all cut out of one Hog, variouſly dreſs'd; and not long after, that vaſt multitude was as eaſily ſlaughter'd as the Hog had bin. The greateſt danger of the War with *Mithridates* was to avoid his Poiſons and Treacherys; and to follow him thro the Deſerts where he fled. When *Lucullus* with leſs than twenty thouſand men had put *Tigranes* with two hundred thouſand to flight, the *Roman* Soldiers who for a while had purſu'd the chace, ſtood ſtill on a ſudden, and fell into a loud laughter at themſelves for uſing their Arms againſt ſuch wretched cowardly Slaves. If this be not enough to prove the Falſhood of our Author's Propoſition, I deſire it may be conſider'd whether good Order or Stability be wanting in *Venice:* Whether *Tuſcany*, be in a better condition to defend it ſelf ſince it fell under the power of the *Medices*, or when it was full of free Citys: Whether it were an eaſy work to conquer *Switzerland:* Whether the *Hollanders* are of greater ſtrength ſince the recovery

Plut. in vit. Q. Flamin.

Plut. in vit. Lucul.

of their Liberty, or when they groan'd under the Yoke of *Spain*: And laſtly, whether the intire conqueſt of *Scotland* and *Ireland*, the Victorys obtain'd againſt the *Hollanders* when in the height of their Power, and the reputation to which *England* did riſe in leſs than five years after 1648. be good marks of the inſtability, diſorder, and weakneſs of free Nations: And if the contrary be true, nothing can be more abſurdly falſe than our Author's aſſertion. SECT. 12.

SECT. XII.

The Glory, Vertue, and Power of the Romans *began and ended with their Liberty.*

AMong many fine things propos'd by our Author, I ſee none more to be admir'd, or that better declares the ſoundneſs of his Judgment, than that he is only pleas'd with the beginning and end of the *Roman* Empire; and ſays, *that their time of Liberty* (between thoſe two extremes) *had nothing of good in it, but that it was of ſhort continuance.* Whereas I dare affirm that all that was ever deſirable, or worthy of praiſe and imitation in *Rome*, proceeded from its Liberty, and grew up and periſh'd with it: which I think will not be contradicted by any, but thoſe who prefer the moſt ſordid Vices before the moſt eminent Vertues; who believe the People to have bin more worthily employ'd by the *Tarquins* in cleanſing Jakes and common Shores, than in acquiring the Dominion of the beſt part of Mankind; and account it better for a People to be oppreſt with hard labour under a proud Maſter, in a ſteril, unhealthy ten-mile Territory, than to command all the Countrys that lie between the *Euphrates* and *Britain*. Such Opinions will hardly find any better Patrons than *Filmer* and his Diſciples, nor the matters of fact, as they are repreſented, be denied by any that know the Hiſtorys of thoſe times. Many *Romans* may have had ſeeds of vertue in them, whilſt in the infancy of that City they liv'd under Kings; but they brought forth little fruit. *Tarquin*, ſirnam'd the Proud, being a *Grecian* by extraction, had perhaps obſerv'd that the Vertue of that Nation had render'd them averſe to the Divine Government he deſir'd to ſet up; and having by his well-natur'd *Tullia* poiſon'd his own Brother her Husband, and his own Wife her Siſter, married her, kill'd her Father, and ſpar'd none that he thought able to oppoſe his deſigns, to finiſh the work, he butcher'd the Senat, with ſuch as ſeem'd moſt eminent among the People, and like a moſt pious Father endeavour'd to render the City deſolate: during that time they who would not be made inſtruments of thoſe Villanys, were oblig'd for their own ſafety to conceal their Vertues; but he being remov'd, they ſhin'd in their Glory. Whilſt he reign'd, *Brutus*, *Valerius*, *Horatius*, *Herminius*, *Larcius*, and *Coriolanus*, lay hid and unregarded; but when they came to fight for themſelves, and to imploy their Valour for the good of their Country, they gave ſuch teſtimonys of Bravery as have bin admir'd by all ſucceeding ages, and ſettled ſuch a Diſciplin, as produc'd others like to them, or more excellent than they, as long as their Liberty laſted. In two hundred and ſixty years that they remain'd under the Government of Kings, tho all of 'em, the laſt only excepted, were choſen by the Senat and People, and did as much to advance

CHAP. II.

the publick Service as could reaſonably be expected from them, their Dominion hardly extended ſo far as from *London* to *Hownſlow:* But in little more than three hundred years after they recover'd their Liberty, they had ſubdu'd all the warlike Nations of *Italy*, deſtroy'd vaſt Armys of the *Gauls*, *Cimbri*, and *Germans*, overthrown the formidable power of *Carthage*, conquer'd the Ciſalpine and Tranſalpine *Gauls*, with all the Nations of *Spain*, notwithſtanding the ferocity of the one, and the more conſtant valour of the other, with the prodigious multitudes of both: They had brought all *Greece* into ſubjection, and by the conqueſt of *Macedon* the Spoils of the World to adorn their City; and found ſo little difficulty in all the Wars that happen'd between them and the greateſt Kings after the Death of *Alexander* of *Epirus* and *Pirrhus*, that the defeats of *Siphax*, *Perſes*, *Antiochus*, *Pruſias*, *Tigranes*, *Ptolomy*, and many others, did hardly deſerve to be number'd amongſt their Victorys.

It were ridiculous to impute this to chance, or to think that Fortune, which of all things is the moſt variable, could for ſo many Ages continue the ſame courſe, unleſs ſupported by Vertue; or to ſuppoſe that all theſe Monarchys which are ſo much extol'd, could have bin deſtroy'd by that Commonwealth, if it had wanted Strength, Stability, Vertue, or good Order. The ſecret Counſels of God are impenetrable; but the ways by which he accompliſhes his deſigns are often evident: When he intends to exalt a People, he fills both them and their Leaders with the Vertues ſutable to the accompliſhment of his end; and takes away all Wiſdom and Vertue from thoſe he reſolves to deſtroy. The Pride of the *Babylonians* and *Aſſyrians* fell thro the baſeneſs of *Sardanapalus*; and the great City was taken while *Belſhazzar* lay drunk amongſt his Whores: The Empire was tranſported to the *Perſians* and *Grecians* by the valour of *Cyrus*, *Alexander*, and the brave Armys that follow'd them. Hiſtorys furniſh us with innumerable examples of this kind: But I think none can be found of a cowardly, weak, effeminate, fooliſh, ill-diſciplin'd People, that have ever ſubdu'd ſuch as were eminent in Strength, Wiſdom, Valor, and good Diſciplin; or that theſe qualitys have bin found or ſubſiſted any where, unleſs cultivated and nouriſh'd by a well-order'd Government. If this therefore was found among the *Romans*, and not in the Kingdoms they overthrew, they had the order and ſtability which the Monarchys had not; and the Strength and Vertue by which they obtain'd ſuch ſucceſs, was the product of them. But if this Vertue and the glorious effects of it did begin with Liberty, it alſo expir'd with the ſame. The beſt men that had not fallen in Battel were glean'd up by the Proſcriptions, or circumvented for the moſt part by falſe and frivolous Accuſations. Mankind is inclin'd to Vice, and the way to Vertue is ſo hard, that it wants encouragement; but when all Honours, Advantages and Preferments are given to Vice, and deſpis'd Vertue finds no other reward than Hatred, Perſecution, and Death, there are few who will follow it. *Tacitus* well deſcribes the State of the Empire, when the Power was abſolutely fallen into the hands of one: *Italia novis cladibus, vel poſt longam ſeculorum ſeriem repetitis, afflicta; Urbs incendiis vaſtata, conſumptis antiquiſſimis delubris, ipſo Capitolio Civium manibus incenſo; polluta ceremoniæ; magna adulteria; plenum exiliis mare; infecti cædibus ſcopuli; atrocius in urbe ſævitum; Nobilitas, opes, omiſſi vel geſti honores pro crimine, & ob virtutes certiſſimum exitium.* His following words ſhew, that the rewards of theſe abominations were not leſs odious than the things themſelves: The higheſt Dignitys were beſtow'd upon the *Delatores*,

C. Tacit. Hiſt. l. 1.

tores, who were a kind of Rogues like to our *Iriſh* Witneſſes, or thoſe that by a new-coin'd word we call *Trepanners*. This is not a Picture drawn by a vulgar hand, but by one of the beſt Painters in the world; and being a Model that ſo much pleaſes our Author, 'tis good to ſee what it produc'd. The firſt fruit was ſuch an intire degeneracy from all good, that *Rome* may be juſtly ſaid never to have produc'd a brave Man ſince the firſt age of her Slavery. *Germanicus* and *Corbulo* were born *expirante Libertate*; and the recompence they receiv'd did ſo little encourage others to follow their example, that none have bin found in any degree like to them; and thoſe of the moſt noble Familys applied themſelves to ſleep, lazineſs, and luxury, that they might not be ſuſpected to be better than their Maſters. *Thraſeas*, *Soranus*, and *Helvidius* were worthy men, who reſolv'd to perſiſt in their Integrity, tho they ſhould die for it; but that was the only thing that made them eminent; for they were of unknown Familys, not *Romans* by birth, nor ever employ'd in War: And thoſe Emperors who did arrive to any degree of Vertue, were *Spaniards*, *Gauls*, *Africans*, *Thracians*, and of all Nations, except *Romans*. The Patrician and Plebeian Familys, which for many ages had fill'd the World with great Commanders, and ſuch as excel'd in all Vertues, being thus extinguiſh'd or corrupted, the common People fell into the loweſt degree of baſeneſs: *Plebs ſordida Circo & Theatris ſueta.* That People which in magnanimity ſurpaſt all that have bin known in the World; who never found any Enterprize above their Spirit to undertake, and Power to accompliſh, with their Liberty loſt all their Vigor and Vertue. They who by their Votes had diſpos'd of Kingdoms and Provinces, fell to deſire nothing but to live and ſee * Plays. Whether their Emperors were good or bad, they uſually rejoic'd at their Death, in hopes of getting a little Mony or Victuals from the Succeſſor. Tho the Empire was by this means grown weak and bloodleſs, yet it could not fall on a ſudden: So vaſt a Body could not die in a moment: All the neighbouring Nations had bin ſo much broken by their Power, that none was able to take advantage of their Weakneſs; and life was preſerv'd by the ſtrength of hungry Barbarians, allur'd by the greatneſs of the Pay they receiv'd to defend thoſe, who had no power left to defend themſelves. This precarious and accidental help could not be durable. They who for a while had bin contented with their Wages, ſoon began to think it fit for them rather to fight for themſelves, than for their weak Maſters; and thereupon fell to ſet up Emperors depending on themſelves, or to ſeize upon the naked Provinces, where they found no other difficulty than to contend with other Strangers, who might have the like deſign upon the ſame. Thus did the Armys of the Eaſt and Weſt ſet up Emperors at their pleaſure; and tho the *Goths*, *Vandals*, *Huns*, *Sueves*, *Alans*, and others, had cruel Wars among themſelves, yet they fear'd and ſuffer'd little or nothing from the *Romans*. This ſtate of things was ſo ſoon obſerv'd, that in the beginning of *Tiberius* his reign, they who endeavour'd to excite the *Gauls* to take Arms, us'd no other arguments than ſuch as were drawn from the extreme weakneſs of the † *Romans*. It was evident that after the Battels of *Philippi* and *Actium*, the ſtrength of the *Ro-*

SECT. 12.

C. Tacit.

* Duas tantum res anxius optat,
Panem & Circenſes. *Juven. Sat.*

† Quàm inops Italia, Plebs urbana imbellis, nihil in exercitibus validum præter externum. *C. Tacit. An. l. 3.*

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CHAP. II.

man Armys conſiſted of Strangers; and even the Victorys that went under their name were gain'd by thoſe Nations which in the time of their Liberty they had ſubdu'd. They had nothing left but Riches gather'd out of their vaſt Dominions; and they learn'd by their ruin, that an Empire acquir'd by Vertue could not long be ſupported by Mony. They who by their Valour had arriv'd at ſuch a height of Glory, Power, Greatneſs, and Happineſs, that was never equal'd, and who in all appearance had nothing to fear from any foreign Power, could never have fallen, unleſs their Vertue and Diſciplin had decay'd, and the corruption of their Manners excited 'em to turn their victorious Swords into their own bowels. Whilſt they were in that flouriſhing condition, they thought they had nothing more to deſire than continuance: but if our Author's judgment is to be follow'd, there was *nothing of good in it, except the ſhortneſs of its continuance*; they were beholden to thoſe who wrought the Change; they were the better for the Battels of *Pharſalia*, *Philippi*, *Munda*, and *Actium*; the deſtruction of two thirds of the People, with the ſlaughter of all the moſt eminent men among them, was for their advantage: The Proſcriptions were wholſom Remedys: *Tacitus* did not underſtand the ſtate of his own Country, when he ſeems to be aſham'd to write the Hiſtory of it, *Nobis in arcto & inglorius labor*; when inſtead of ſuch glorious things as had bin atchiev'd by the *Romans*, whilſt either the Senat, or the Common Poople prevail'd, he had nothing left to relate, but *ſæva juſſa, continuas accuſationes, fallaces amicitias, perniciem innocentium:* They enjoy'd nothing that was good from the expulſion of the *Tarquins* to the reeſtabliſhment of Divine abſolute Monarchy in the Perſons of thoſe pious Fathers of the People, *Tiberius*, *Caligula*, *Claudius*, *Nero*, *Galba*, *Otho*, *Vitellius*, &c. There was no Vertue in the *Junii*, *Horatii*, *Cornelii*, *Quintii*, *Decii*, *Manlii*; but the generous and tender-hearted Princes before-mention'd were perfect examples of it: Whilſt annual Magiſtrats govern'd, there was no ſtability; *Sejanus*, *Macro* and *Tigellinus* introduc'd good order: Vertue was not eſteem'd by the antient Senat and People; *Meſſalina*, *Agrippina*, *Poppæa*, *Narciſſus*, *Pallas*, *Vinnius*, and *Laco* knew how to put a juſt value upon it: The irregularitys of popular Aſſemblys, and want of Prudence in the Senat, was repair'd by the temperate proceedings of the *German*, *Pannonian* and Eaſtern Armys, or the modeſt diſcretion of the Pretorian Bands: The City was deliver'd by them from the burden of governing the World, and for its own good frequently plunder'd, fir'd; and at laſt, with the reſt of deſolated *Italy*, and the nobleſt Provinces of *Europe*, *Aſia*, and *Africa*, brought under the yoke of the moſt barbarous and cruel Nations. By the ſame light we may ſee that thoſe who endeavour'd to perpetuate the miſery of Liberty to *Rome*, or loſt their lives in the defence of it, were the worſt or the moſt fooliſh of men, and that they were the beſt who did overthrow it. This rectifys all our Errors; and if the higheſt Praiſes are due to him that did the work, the next are well deſerv'd by thoſe who periſh'd in attempting it: and if the Sons of *Brutus*, with their Companions the *Vitellii* and *Aquillii*; *Claudius Appius* the *Decemvir*; thoſe that would have betray'd the City to *Porſenna*; *Spurius Melius*, *Spur. Caſſius*, *Manlius Capitolinus*, *Saturninus*, *Catiline*, *Cethegus*, *Lentulus*, had bin as fortunate as *Julius Cæſar*, they might as well have deſerv'd an *Apotheoſis*. But if all this be falſe, abſurd, beſtial, and abominable, the principles that neceſſarily lead us to ſuch concluſions are ſo alſo; which is enough to ſhew, that the Strength, Vertue, Glory, Wealth,

Annal. l. 4.

† Power,

Power, and Happineſs of *Rome* proceeding from Liberty, did riſe, grow, and periſh with it. SECT. 13.

SECT. XIII.

There is no diſorder or prejudice in changing the name or number of Magiſtrats, whilſt the root and principle of their Power continues intire.

IN the next place our Author would perſuade us that the *Romans* were inconſtant, becauſe of their changes from annual Conſuls to Military Tribunes, *Decemviri*, and Dictators; and gives the name of Sedition to the complaints made againſt Uſury, or the conteſts concerning Marriages or Magiſtracy: But I affirm,

1. That no change of Magiſtracy, as to the name, number, or form, dos teſtify irregularity, or bring any manner of prejudice, as long as it is done by thoſe who have a right of doing it, and he or they who are created continue within the power of the Law to accompliſh the end of their inſtitution; many forms being in themſelves equally good, and may be us'd as well one as another, according to times and other circumſtances.

2. In the ſecond place, 'tis a rare thing for a City at the firſt to be rightly conſtituted: Men can hardly at once foreſee all that may happen in many Ages, and the changes that accompany them ought to be provided for. *Rome* in its foundation was ſubject to theſe defects, and the inconveniences ariſing from them were by degrees diſcover'd and remedi'd. They did not think of regulating Uſury, till they ſaw the miſchiefs proceeding from the cruelty of Uſurers; or of ſetting limits to the proportion of Land that one man might enjoy, till the avarice of a few had ſo far ſucceeded, that their Riches were grown formidable, and many by the poverty to which they were reduc'd became uſeleſs to the City. It was not time to make a Law that the Plebeians might marry with the Patricians, till the diſtinction had rais'd the Patricians to ſuch Pride, as to look upon themſelves to have ſomething of divine, and the others to be *Inauſpicati*, or profane, and brought the City into danger by that diviſion; nor to make the Plebeians capable of being elected to the chief Magiſtracys, till they had men able to perform the dutys of them. But theſe things being obſerv'd, remedys were ſeaſonably apply'd without any bloodſhed or miſchief, tho not without noiſe and wrangling.

3. All human Conſtitutions are ſubject to corruption, and muſt periſh, unleſs timely renew'd and reduc'd to their firſt principles: This was chiefly done by means of thoſe Tumults which our Author ignorantly blames: The whole People by whom the Magiſtracy had bin at firſt created, executed their power in thoſe things which comprehend Sovereignty in the higheſt degree, and brought every one to acknowledg it: There was nothing that they could not do, who firſt confer'd the ſupreme Honours upon the Patricians, and then made the Plebeians equal to them. Yet their Modeſty was not leſs than their Power or Courage: and therefore when by the Law they might have made a Plebeian Conſul, they did not chuſe one in forty years; and when they did make uſe of their Right in advancing men of their own Order, they were ſo prudent, that they cannot

CHAP. II.

not be ſaid to have bin miſtaken in their Elections three times, whilſt their Votes were free: whereas, of all the Emperors that came in by Uſurpation, pretence of Blood from thoſe who had uſurp'd, or that were ſet up by the Soldiers, or a few Electors, hardly three can be nam'd who deſerv'd that Honour, and moſt of them were ſuch as ſeem'd to be born for Plagues to Mankind.

4. He manifeſts his fraud or ignorance in attributing the Legiſlative power ſometimes to the Senat, and ſometimes to the People; for the Senat never had it. The ſtile of *Senatus cenſuit, Populus juſſit*, was never alter'd; but the right of Adviſing continuing in the Senat, that of Enacting ever continu'd in the People.

5. An occaſion of commending abſolute Power, in order to the eſtabliſhment of Hereditary Monarchy, is abſurdly drawn from their Cuſtom of creating a Dictator in time of danger; for no man was ever created, but ſuch as ſeem'd able to bear ſo great a burden, which in hereditary Governments is wholly left to chance. Tho his Power was great, it did ariſe from the Law; and being confin'd to ſix months, 'twas almoſt impoſſible for any man to abuſe it, or to corrupt ſo many of thoſe who had enjoy'd the ſame honour, or might aſpire to it, as to bring them for his pleaſure to betray their Country: and as no man was ever choſen who had not given great teſtimonys of his Vertues, ſo no one did ever forfeit the good opinion conceiv'd of him. Vertue was then honour'd, and thought ſo neceſſarily to comprehend a ſincere love and fidelity to the Commonwealth, that without it the moſt eminent qualitys were reputed vile and odious; and the memory of former Services could no way expiate the guilt of conſpiring againſt it. This ſeeming Severity was in truth the greateſt Clemency: for tho our Author has the impudence to ſay, that during the *Roman Liberty the beſt men thriv'd worſt, and the worſt beſt*, he cannot alledg one example of any eminent *Roman* put to death (except *Manlius Capitolinus*) from the expulſion of the *Tarquins* to the time of the *Gracchi*, and the Civil Wars not long after enſuing; and of very few who were baniſh'd. By theſe means Crimes were prevented; and the temptations to evil being remov'd, Treachery was deſtroy'd in the root; and ſuch as might be naturally ambitious, were made to ſee there was no other way to Honour and Power, than by acting vertuouſly.

But leſt this ſhould not be ſufficient to reſtrain aſpiring men, what Power ſoever was granted to any Magiſtrate, the Sovereignty ſtill remain'd in the People, and all without exception were ſubject to them. This may ſeem ſtrange to thoſe who think the Dictators were abſolute, becauſe they are ſaid to have bin *ſine provocatione*; but that is to be only underſtood in relation to other Magiſtrats, and not to the People, as is clearly prov'd in the caſe of *Q. Fabius*, whom *Papirius* the Dictator would have put to death: *Tribunos Plebis appello*, ſays *Fabius Maximus* his Father, *& provoco ad Populum, eumq; tibi fugienti exercitus tui, fugienti Senatus Judicium, judicem fero; qui certe unus pluſquam tua dictatura poteſt polletque: videro, ceſſuruſne ſis provocationi, cui Tullus Hoſtilius ceſſit.* And tho the People did rather intercede for *Fabius* than command his deliverance, that modeſty did evidently proceed from an opinion that *Papirius* was in the right; and tho they deſir'd to ſave *Fabius*, who ſeems to have bin one of the greateſt and beſt men that ever the City produc'd, they would not enervate that military Diſciplin, to which they ow'd, not only their greatneſs, but their ſubſiſtence; moſt eſpe-

T. Liv. l. 8.

† cially

cially when their Sovereign Authority was acknowledg'd by all, and the Dictator himſelf had ſubmitted. This right of Appeals to the People was the foundation of the *Roman* Commonwealth, laid in the days of *Romulus*, ſubmitted to by *Hoſtilius* in the caſe of *Horatius*, and never violated, till the Laws and the Liberty which they ſupported were overthrown by the power of the Sword. This is confirm'd by the ſpeech of *Metellus* the Tribune, who in the time of the ſecond *Carthaginian* War, cauſeleſly diſliking the Proceedings of *Q. Fabius Maximus* then Dictator, in a publick Aſſembly of the People ſaid, *Quod ſi antiquus animus Plebi Romanæ eſſet, ſe audacter laturum de abrogando Q. Fabii Imperio; nunc modicam rogationem promulgaturum, de æquando Magiſtri Equitum & Dictatoris jure:* which was done, and that Action, which had no precedent, ſhews that the People needed none, and that their Power being eminently above that of all Magiſtrats, was oblig'd to no other rule than that of their own Will. Tho I do therefore grant that a Power like to the Dictatorian, limited in time, circumſcrib'd by Law, and kept perpetually under the ſupreme Authority of the People, may, by vertuous and well-diſciplin'd Nations, upon ſome occaſions, be prudently granted to a vertuous man, it can have no relation to our Author's Monarch, whoſe Power is in himſelf, ſubject to no Law, perpetually exercis'd by himſelf, and for his own ſake, whether he has any of the abilitys requir'd for the due performance of ſo great a work, or be intirely deſtitute of them; nothing being more unreaſonable than to deduce conſequences from caſes, which in ſubſtance and circumſtances are altogether unlike: but to the contrary, theſe examples ſhewing that the *Romans*, even in the time of ſuch Magiſtrats as ſeem'd to be moſt abſolute, did retain and exerciſe the Sovereign Power, do moſt evidently prove that the Government was ever the ſame remaining in the People, who without prejudice might give the Adminiſtration to one or more men as beſt pleas'd themſelves, and the ſucceſs ſhews that they did it prudently.

SECT. 14.

T. Liv. l. 1.

T. Liv. l. 22.

SECT. XIV.

No Sedition was hurtful to Rome, *till thro their Proſperity ſome men gain'd a Power above the Laws.*

LIttle pains is requir'd to confute our Author, who imputes much bloodſhed to the popular Government of *Rome*; for he cannot prove that one man was unjuſtly put to death, or ſlain in any Sedition before *Publius Gracchus:* The Foundations of the Commonwealth were then ſo ſhaken, that the Laws could not be executed; and whatſoever did then fall out, ought to be attributed to the Monarchy for which the great Men began to contend. Whilſt they had no other Wars than with neighboring Nations, they had a ſtrict eye upon their Commanders, and could preſerve Diſciplin among the Soldiers: but when by the excellence of their Valour and Conduct the greateſt Powers of the World were ſubdu'd, and for the better carrying on of foreign Wars, Armys were ſuffer'd to continue in the ſame hands longer than the Law did direct, Soldiery came to be accounted a Trade, and thoſe who had the worſt deſigns againſt the Commonwealth, began to favour all manner of Licentiouſneſs and Rapine, that they might gain the favour of the Legions, who by that means be-

CHAP. II. came unruly and ſeditious; 'twas hard, if not impoſſible, to preſerve a Civil equality, when the Spoils of the greateſt Kingdoms were brought to adorn the Houſes of private men; and they who had the greateſt Citys and Nations to be their Dependents and Clients, were apt to ſcorn the power of the Law. This was a moſt dangerous Diſeaſe, like thoſe to which human Bodys are ſubject, when arriv'd to that which Phyſicians call the Athletick habit, proceeding from the higheſt perfection of Health, Activity and Strength, that the beſt Conſtitution by Diet and Exerciſe can attain. Whoſoever falls into them ſhews that he had attain'd that perfection; and he who blames that which brings a State into the like condition, condemns that which is moſt perfect among men. Whilſt the *Romans* were in the way to this, no Sedition did them any hurt: they were compos'd without Blood; and thoſe that ſeem'd to be the moſt dangerous, produc'd the beſt Laws. But when they were arriv'd to that condition, no Order could do them good; the fatal period ſet to human things was come, they could go no higher,

Lucan. l. 1. ——*Summiſque negatum*
Stare diu;

and all that our Author blames, is not to be imputed to their Conſtitution, but their departing from it. All men were ever ſubject to error, and it may be ſaid that the miſtaken People in the ſpace of about three hundred years did unjuſtly fine or baniſh five or ſix men; but thoſe miſtakes were ſo frankly acknowledg'd, and carefully repair'd by Honours beſtow'd upon the injur'd Perſons, as appears by the Examples of *Camillus*, *Livius Salinator*, *Paulus Emylius*, and others, that they deſerve more praiſe than if they had not fail'd.

If for the above-mention'd time Seditions were harmleſs or profitable, they were alſo abſolutely exempted from Civil Wars. Thoſe of *Apulia* and *Greece* were Revolts of conquer'd Nations, and can no way fall under that name: But 'tis moſt abſurdly apply'd to the ſervile and gladiatorian Wars; for the Gladiators were Slaves alſo, and Civil Wars can be made only by thoſe who are Members of the Civil Society, which Slaves are not. Thoſe that made the *bellum Sociale*, were Freemen, but not Citizens; and the War they made could not be call'd Civil. The *Romans* had three ways of dealing with conquer'd Nations.

1. Some were receiv'd into the body of the City, *Civitate donati*, as the *Latins* by *Romulus*; the *Albans* by *Hoſtilius*; the *Privernates* when their Ambaſſador declar'd, that no Peace could be durable unleſs it were juſt and eaſy; and the Senat ſaid, *Se viri & liberi vocem audiviſſe, taleſq; dignos eſſe ut Romani fiant*; and the like Favour was ſhown to many others.

2. By making Leagues with them, as *Livy* ſays, *Populum Romanum devictos bello populos, malle ſocietate & amicitia habere conjunctos, quam triſti ſubjectos ſervitio:* Of which ſort were the *Samnites*, who not liking their condition, join'd with *Hannibal*; and afterwards, under the conduct of the brave *Teleſinus*, with other Nations that liv'd under the condition of *Socii*, made an unproſperous attempt to deliver themſelves.

3. Thoſe who after many Rebellions were *in Provinciam redacti*, as the *Capuans*, when their City was taken by *Appius Claudius*, and *Q. Fulvius Flaccus*.

We often hear of Wars made by thoſe of the two latter ſorts; but of none that can be call'd Civil, till the times of *Marius*, *Sylla*, and *Catiline*: and as they are to be eſteem'd the laſt Struglings of expiring Liberty,

when the Laws, by which it had ſubſiſted, were enervated; ſo thoſe that happen'd between *Ceſar* and *Pompey*, *Octavius* and *Antonius*, with the Proſcriptions, Triumvirate, and all the Miſchiefs that accompany'd them, are to be imputed wholly to the Monarchy for which they contended, as well as thoſe between *Nero*, *Galba*, *Otho*, *Vitellius*, and *Veſpaſian*, that hardly ever ceas'd till the Empire was aboliſh'd; for the name of a Commonwealth continu'd to the end; and I know not why *Tiberius* or *Nero* might not uſe it as well as *Sylla* or *Marius*. SECT. 14.

Yet if our Author be reſolv'd to impute to Popular Government all that paſs'd before *Ceſar* made himſelf perpetual Dictator, he will find no more than is ſeen in all places. We have known few ſmall States, and no great one free from Revolts of Subjects or Allies; and the greateſt Empire of the Eaſt was overthrown by the rebellion of the *Mammalukes* their Slaves. If there is any difference to be obſerv'd between what happen'd at *Rome*, 'tis chiefly, that whilſt there was any ſhadow of Liberty, the Slaves, Gladiators, Subjects or Allies, were always beaten and ſuppreſs'd; whereas in the time of the Emperors, the Revolt of a Province was ſufficient to give a new Maſter to the beſt part of Mankind; and he having no more power than was requir'd for a preſent Miſchief, was for the moſt part, in a ſhort time, deſtroy'd by another. But to pleaſe our Author, I will acknowledg a ſecond defect, even that Wantonneſs to which he aſcribes all their Diſorders; tho I muſt withal deſire him to conſider from whence Wantonneſs dos proceed. If the People of *Turky* or *France* did rebel, I ſhould think they were driven to it by Miſery, Beggery, or Deſpair; and could lay Wantonneſs only to the charge of thoſe who enjoy much Proſperity. Nations that are oppreſt and made miſerable, may fall into Rage, but can never grow wanton. In the time of the *Roman* Emperors, the Pretorian Cohorts, or the Armys that had the liberty of ravaging the richeſt Provinces, might be proud of their Strength, or grow wanton thro the abundance of their Enjoyments: The Janizarys in later Ages may, for the ſame reaſons, have fallen into the like exceſſes; but ſuch as have loſt their Liberty are in no danger of them. When all the Nobility of *Rome* was deſtroy'd, and thoſe who excel'd in Reputation or Vertue, were fallen in the Wars, or by the Proſcriptions; when two thirds of the People were ſlain, the beſt Citys and Colonys burnt, the Provinces exhauſted, and the ſmall remains left in them oppreſt with a moſt miſerable ſlavery, they may have revolted, and ſometimes did, as the *Britans*, *Batavians*, and others mention'd in the *Roman* Hiſtory: But they were driven to thoſe Revolts by Fury and Neceſſity, ariſing from the Miſerys and Indignitys they ſuffer'd under an inſupportable Tyranny; and Wantonneſs had no part in them. The People of *Rome*, when they were a little freed from the Terror of the Soldiers, did ſometimes for the ſame reaſons conſpire againſt the Emperors; and when they could do no more, expreſt their hatred by breaking their Statues: But after the Battels of *Pharſalia*, *Philippi*, and the Proſcriptions, they never committed any folly thro Wantonneſs. In the like manner *Naples* and *Sicily* have revolted within theſe few years; and ſome who are well acquainted with the State of thoſe Kingdoms, think them ready again to do the like: but if it ſhould ſo happen, no man of underſtanding would impute it to Wantonneſs. The Preſſures under which they groan, have cur'd 'em of all ſuch Diſeaſes; and the *Romans* after the loſs of their Liberty could never fall into them. They may have grown wanton when their Authority was reverenc'd, their Vertue admir'd,

CHAP. II.

mir'd, their Power irreſiſtible, and the Riches of the World were flowing in upon them, as it were, to corrupt their Manners, by inticing them to pleaſure. But when all that was loſt, and they found their Perſons expos'd to all manner of Violence from the baſeſt of men; their Riches exhauſted by Tributes and Rapine, whilſt the Treaſures of the Empire were not ſufficient to ſupply the Luxury of their Maſters: the miſery they ſuffer'd, and the ſhame of ſuffering it, with the contemptible weakneſs to which they were reduc'd, did too ſtrongly admoniſh them that the Vices of Wantonneſs belong'd only to thoſe who enjoy'd a Condition far different from theirs; and the memory of what they had loſt, ſharpned the ſenſe of what they felt. This is the ſtate of things which pleaſes our Author; and, by praiſing that Government, which depriv'd thoſe who were under it of all that is moſt deſirable in the world, and introduc'd all that ought to be deteſted, he ſufficiently ſhews that he delights only in that which is moſt abominable, and would introduce his admir'd Abſolute Monarchy, only as an Inſtrument of bringing Vice, Miſery, Devaſtation and Infamy upon Mankind.

SECT. XV.

The Empire of Rome *perpetually decay'd when it fell into the hands of one Man.*

IN purſuance of his Deſign our Author, with as much Judgment as Truth, denies that *Rome* became Miſtreſs of the World under the Popular Government: *It is not ſo,* ſays he, *for* Rome *began her Empire under Kings, and did perfect it under Emperors: It did only increaſe under that Popularity: Her greateſt exaltation was under* Trajan, *and longeſt Peace under* Auguſtus. For the illuſtration of which, I deſire theſe few things may be conſider'd.

1. That the firſt Monarchy of *Rome* was not abſolute: The Kings were made by the People without regard to any Man's Title, or other reaſon than the common Good, chuſing him that ſeem'd moſt likely to procure it; ſetting up at the ſame time a Senat conſiſting of a hundred of the moſt eminent Men among them; and, after the reception of the *Sabins* into the City, adding as many more to them, and committing the principal part of the Government to their care, retaining the power of making thoſe Laws to which the Kings who reign'd by their Command were ſubject, and reſerving to themſelves the Judgment of all great Matters upon Appeal. If any of their Kings deſerv'd to be call'd a Monarch, according to *Filmer*'s Definition, it was the laſt *Tarquin*; for he alone of all their Kings reign'd not *juſſu Populi*, but came in by Treachery and Murder. If he had continu'd, he had cur'd the People of all Vices proceeding from Wantonneſs; but his fartheſt Conqueſt was of the ſmall Town of *Gabii* ten miles diſtant from *Rome*, which he effected by the fraud of his deteſtable Son; and that being then the utmoſt limit of the *Roman* Empire, muſt deſerve to be call'd the World, or the Empire of it was not gain'd by their Kings.

T. Liv. l. 2.

2. The Extent of Conqueſts is not the only, nor the chief thing that ought to be conſider'd in them; regard is to be had to the Means whereby they are made, and the Valour or Force that was employ'd by the Enemy.

my. In theſe reſpects not only the overthrow of *Carthage*, and the Conqueſts of *Spain*, but the Victorys gain'd againſt the *Sabins*, *Latins*, *Tuſcans*, *Samnites*, and other valiant Nations of *Italy*, who moſt obſtinately defended their Liberty, when the *Romans* had no Forces but their own, ſhew more Vertue, and deſerve incomparably more Praiſe, than the Defeats of any Nations whatſoever, when they were increas'd in Number, Riches, Reputation and Power, and had many other warlike People inſtructed in their Diſciplin, and fighting under their Enſigns. But I deny that the *Romans* did ever make any conſiderable acquiſition after the loſs of their Liberty. They had already ſubdu'd all *Italy*, *Greece*, *Macedon*, the Iſlands of the *Mediterranean* Sea, *Thracia*, *Illyrium*, *Aſia* the Leſs, *Pontus*, *Armenia*, *Syria*, *Egypt*, *Africa*, *Gaul* and *Spain*. The Forces of *Germany* were broken; a Bridg laid over the *Rhine*, and all the Countrys on this ſide ſubdu'd. This was all that was ever gain'd by the Valour of their own Forces, and that could bring either Honour or Profit. But I know of no Conqueſt made after that time, unleſs the name of Conqueſt be given to *Caligula*'s Expedition, when he ſaid he had ſubdu'd the Sea, in making an uſeleſs Bridg from *Puteoli* to *Baiæ*; or that of the other Fool, who enter'd *Rome* in triumph, for having gather'd ſhells on the Sea-ſhore. *Trajan*'s Expedition into the Eaſt, was rather a Journy than a War: He rambled over the Provinces that *Auguſtus* had abandon'd as not worth keeping, and others that had nothing to defend them, but ill-arm'd and unwarlike Barbarians: Upon the whole matter, he ſeems to have bin led only by Curioſity; and the vanity of looking upon them as Conqueſts, appears in their being relinquiſh'd as ſoon as gain'd. *Britain* was eaſily taken from a naked and unskilful, tho a brave People; hardly kept, and ſhamefully loſt. But tho the Emperors had made greater Wars than the Commonwealth, vanquiſh'd Nations of more valour and skill than their *Italian* Neighbours, the *Grecians* or *Carthaginians*; ſubdu'd and ſlaughter'd thoſe that in Numbers and Ferocity had exceeded the *Cimbri*, *Gauls* and *Teutons*, encounter'd Captains more formidable than *Pirrhus* and *Hannibal*, it might indeed increaſe the Glory of him that ſhould have done it, but could add nothing of Honour or Advantage to the *Roman* Name: The Nobility was extirpated long before, the People corrupted and enſlav'd, *Italy* lay deſolate, ſo as a *Roman* was hardly to be found in a *Roman* Army, which was generally compos'd of ſuch, as fighting for themſelves or their Commander, never thought of any thing leſs than the Intereſt of *Rome*. And as it is impoſſible that what is ſo neglected and betray'd, ſhould be durable, that Empire which was acquir'd by the Valour and Conduct of the braveſt and beſt diſciplin'd People of the World, decay'd and periſh'd in the hands of thoſe Abſolute Monarchs who ought to have preſerv'd it. SECT. 15.

3. Peace is deſirable by a State that is conſtituted for it, who contenting themſelves with their own Territorys, have no deſires of enlarging them: Or perhaps it might ſimply deſerve praiſe, if Mankind were ſo fram'd, that a People intending hurt to none, could preſerve themſelves; but the World being ſo far of another temper, that no Nation can be ſafe without Valour and Strength, thoſe Governments only deſerve to be commended, which by Diſciplin and Exerciſe increaſe both, and the *Roman* above all, that excel'd in both. Peace therefore may be good in its ſeaſon, and was ſo in *Numa*'s Reign; yet two or three ſuch Kings would have encourag'd ſome active Neighbours to put an end to that aſpiring City, before its Territory had extended beyond *Fidenæ*. But the Diſciplin that beſt

CHAP. II.

beſt agreed with the Temper and Deſigns of a Warlike People, being renew'd by his brave Succeſſors, the Dangers were put on their Enemys; and all of them, the laſt only excepted, perſiſting in the ſame way, did reaſonably well perform their Duty. When they were remov'd, and the Affairs of the City depended no longer upon the Temper or Capacity of one Man, the ends for which the City was conſtituted were vigorouſly purſu'd, and ſuch Magiſtrats annually choſen, as would not long continue in a univerſal Peace, till they had gotten the Empire to which they aſpir'd, or were by ill Fortune brought to ſuch weakneſs, as to be no longer able to make War. Both of theſe happen'd in the ſo much magnify'd Reign of *Auguſtus*. He found the Empire ſo great, that all Additions might rationally be rejected as uſeleſs or prejudicial; and *Italy* ſo exhauſted, that Wars could only be carry'd on by the ſtrength of Strangers: It was time to lie ſtill when they had no power to act; and they might do it ſafely, whilſt the Reputation gain'd by former Victorys preſerv'd them from Foreign Invaſions. When *Craſſus*, *Pompey*, and *Ceſar*, who had torn the Commonwealth into three Monarchys, were kill'd, and the Flower of the *Roman* Nobility and People deſtroy'd with them, or by them: When *Cato*'s Vertue had prov'd too weak to ſupport a falling State, and *Brutus* with *Caſſius* had periſh'd in their noble Attempt to reſtore their Liberty: When the beſt part of the Senat had bin expos'd for a Prey to the Vulturs and Wolves of *Theſſaly*, and one hundred and thirty of thoſe who deſerv'd the hatred of Tyrants, and had eſcap'd the fury of War, had bin deſtroy'd by the Proſcriptions: When neither Captains nor Soldiers remain'd in the deſolate City; when the Tyrant abhor'd and fear'd all thoſe who had either Reputation or Vertue, and by the moſt ſubtil Arts endeavour'd ſo to corrupt or break the Spirits of the remaining People, that they might not think of their former Greatneſs, or the ways of recovering it, we ought not to wonder that they ceas'd from War. But ſuch a Peace is no more to be commended, than that which Men have in the Grave; as in the Epitaph of the Marqueſs *Trivultio* ſeen at *Milan*, *Qui nunquam quievit, quieſcit, tace.* This Peace is in every Wilderneſs: The Turks have eſtabliſh'd it in the empty Provinces of *Aſia* and *Greece*. Where there are no men, or if thoſe men have no Courage, there can be no War. Our Anceſtors the *Britans* obſerv'd, that the Peace which in that Age the *Romans* eſtabliſh'd in the Provinces, conſiſted in the moſt wretched ſlavery and ſolitude: *Miſerrimam ſervitutem pacem appellant.* And in another place, *Solitudinem faciunt, pacem vocant.* This is the Peace the *Spaniards* ſettled in their Dominions of the *Weſt-Indies*, by the deſtruction of above * forty millions of Souls. The Countrys were very quiet, when wild Beaſts only were left to fight in them, or a few miſerable Wretches, who had neither ſtrength nor courage to reſiſt their violence. This was the Peace the *Romans* enjoy'd under *Auguſtus*: A few of thoſe who made themſelves ſubſervient to his Pleaſure, and Miniſters of the publick Calamitys, were put into a flouriſhing condition; but the reſt pin'd, wither'd, and never recover'd. If yet our Author will have us to think the Liberty and People of *Rome* oblig'd to *Auguſtus*, who procur'd ſuch a Peace for them, he ought to remember that beſides what they ſuffer'd in ſettling it, they paid dear for it even in the future; for *Italy* was thereby ſo weaken'd, as never to recover any ſtrength or vertue to defend it ſelf; but depending abſolutely upon barbarous Nations, or Armys compos'd of them, was ravag'd and torn in pieces by every Invader.

C. Tacit.

* Barth. de las Caſas, deſtruyc. de las Indias.

*

4. That

4. That Peace is only to be valu'd which is accompany'd with Juſtice; and thoſe Governments only deſerve praiſe, who put the Power into the hands of the beſt Men. This was wholly wanting during the Reigns of *Auguſtus* and his Succeſſors. The worſt of men gain'd the Sovereignty by Alliance, Fraud, or Violence, and advanc'd ſuch as moſt reſembled themſelves. *Auguſtus* was worſe in the beginning than in the latter end of his Reign; but his bloody and impure Succeſſor grew every day more wicked as long as he liv'd: Whilſt he ſat upon the Rocks at *Capreæ* with his *Chaldeans*, he meditated nothing but Luſt or Miſchief, and had *Sejanus* and *Macro* always ready to execute his deteſtable Deſigns. *Caligula* could find none equal to himſelf in all manner of Villanys; but favour'd thoſe moſt who were likeſt to him. *Claudius* his ſtupidity, drunkenneſs, and ſubjection to the fury of two impudent Strumpets, and manumis'd Slaves, prov'd as hurtful to the Empire, as the ſavage fury of his Predeceſſor. Tho *Nero* was a Monſter that the World could not bear, yet the raging Soldiers kill'd *Galba*, and gave the Empire to *Otho* for no other reaſon, than that he had bin the Companion of his Debauches, and of all men was thought moſt to reſemble him. With them all Evils came in like a Flood; and their Succeſſors finding none ſo bad as themſelves, but the Favorites, Whores and Slaves that govern'd them, would ſuffer no Vertue to grow up; and fill'd the City with a baſe, leud, and miſerable Rabble, that car'd for nothing beyond Stage-plays and Bread. Such a People could not be ſeditious; but *Rome* had bin deſolate, if they had not thus fill'd it. And tho this temper and condition of a People may pleaſe our Author; yet it was an incurable Wound to the State, and in conſequence to the beſt part of the World. SECT. 15.

When the City had bin burnt by the *Gauls*, it was ſoon reſtor'd: The Defeats of *Ticinum*, *Trebia*, *Thraſimene*, and *Cannæ*, were repair'd with equal or greater Victorys: The War of the Allies ended in their overthrow: The Fury of the Gladiators was extinguiſh'd with their Blood: The Commonwealth loſt Battels, but was never conquer'd in any War; and in the end triumph'd over all that had contended with them. Whilſt Liberty continu'd, it was the Nurſe of Vertue; and all the Loſſes ſuffer'd in Foreign or Civil Wars, were eaſily recover'd: but when Liberty was loſt, Valour and Vertue was torn up by the roots, and the *Roman* Power proceeding from it, periſh'd.

I have not dwelt ſo long upon this point to expoſe the folly of our Author, but to ſhow that the abovemention'd Evils did proceed from a permanent cauſe, which will always produce the like effects; and Hiſtorys teſtify, that it has done the ſame in all places. *Carthage* was rebuilt, after it had bin deſtroy'd by *Scipio*, and continu'd to be a rich City for almoſt a thouſand years, but produc'd no ſuch Men as *Amilcar*, *Aſdrubal* and *Hannibal*: *Cleomenes* and *Euclidas* were the laſt that deſerv'd to be call'd *Spartans*: *Athens* never had an eminent Man, after it felt the weight of the *Macedonian* Yoke, and *Philopemen* was the laſt of the *Achaians*. Tho the Commonwealths of *Italy* in later Ages, having too much apply'd themſelves to the acquiſition of Mony, wanted that greatneſs of Spirit which had reign'd in their Anceſtors, yet they have not bin without Valour and Vertue. That of *Piſa* was famous for Power at Sea, till the *Genoeſes* overthrew them. *Florence* had a brave Nobility, and a ſtout People. *Arezzo*, *Piſtoia*, *Cortona*, *Sienna*, and other ſmall Towns of *Tuſcany*, were not without ſtrength, tho for the moſt part unhappily exercis'd in the Factions of *Ghibelins* and *Guelphs*, *Neri* and *Bianchi*, that divided

CHAP. II. divided all *Italy*; but ſince the introduction of *Filmer*'s divine Abſolute Monarchy, all Power, Vertue, Reputation and Strength, are utterly periſh'd from among them, and no man dares to oppoſe the publick Miſchiefs. They uſually decide private Quarrels by Aſſaſſination or Poiſon; and in other reſpects they enjoy the happineſs of that Peace which is always found within empty Walls and deſolated Countrys: And if this be according to the Laws of God and Nature, it cannot be deny'd, that Weakneſs, Baſeneſs, Cowardice, Deſtruction and Deſolation are ſo likewiſe. Theſe are the Bleſſings our well-natur'd Author would confer upon us; but if they were to be eſteem'd ſo, I cannot tell why thoſe that felt them, complain'd ſo much of 'em. *Tacitus* reciting what paſt in his time, and ſomewhat before (for want of a Chriſtian Spirit) in the bitterneſs of his Soul ſays, *Nec unquam atrocioribus Populi Romani cladibus, magiſque juſtis indiciis probatum eſt, non eſſe curæ Deis ſecuritatem noſtram eſſe ultionem.* Some thought that no Puniſhments could be juſtly deſerv'd by a People that had ſo much favour'd Vertue; others, that even the Gods they ador'd, envied their Felicity and Glory; but all confeſs'd they were fallen from the higheſt pitch of human Happineſs into the loweſt degree of Infamy and Miſery: And our Author being the firſt that ever found they had gain'd by the change, we are to attribute the diſcovery of ſo great a Spirit to the excellency of his Wiſdom. If, ſuſpending my Judgment in this point, till it be prov'd by better Authority than his word, I in the mean time follow the opinion of thoſe who think Slavery dos naturally produce meanneſs of Spirit, with its worſt effect, flattery, which *Tacitus* calls *fœdum ſervitutis crimen*; I muſt believe, that the Impudence of carrying it to ſuch a height, as to commend nothing in the moſt glorious Liberty, that made the moſt vertuous People in the world, but the ſhortneſs of its continuance, and to prefer the Tyranny of the baſeſt of Men, or worſt of Monſters, is peculiar to *Filmer*; and that their wickedneſs, which had never bin equal'd, is ſurpaſt by him, who recommends as the Ordinance of God, the Principles that certainly produce them.

C. Tacit. l. 1.

But, ſays our Author, *tho* Rome *was for a while miraculouſly upheld in Glory by a greater Prudence than its own, yet in a ſhort time, after manifold Alterations, ſhe was ruin'd by her own hand.* But 'tis abſurd to ſay, that the overthrow of a Government, which had nothing of good in it, can be a ruin; or that the Glory in which it continu'd, had nothing of good in it; and moſt of all, that it could be ruin'd by no hands but its own, if that Glory had not bin gain'd, and immediatly or inſtrumentally ſupported by ſuch vertue and ſtrength as is worthily to be prefer'd before all other temporal Happineſs, and dos ever produce it. This ſhews that Liars ought to have good memorys. But paſſing over ſuch fooliſh Contradictions, I deſire to know, how that *Prudence, greater than its own* (which till I am better inform'd, I muſt think to be inſeparably united to Juſtice and Goodneſs) came miraculouſly to ſupport a Government, which was not only evil in it ſelf, as contrary to the Laws of God and Nature; but ſo perpetually bent againſt that Monarchy, which he ſays is according to them, as to hate all Monarchs, deſpiſe all that would live under them, deſtroy as many of them as came within their reach; and make a Law by which any man was authoris'd to kill him, who ſhould endeavour to ſet up this Divine Power among them. Moreover, no human Prudence preſerv'd the Roman Glory but their own: the others directly ſet themſelves to oppoſe it, and the moſt eminent fell under it. We know of no Pru-

dence ſurpaſſing the human, unleſs it be the Divine: But the Divine Prudence did never miraculouſly exert it ſelf, except to bear witneſs to the Truth, and to give authority to thoſe that announc'd it. If therefore the Glory of this Popular Government was miraculouſly ſupported by a more than human Prudence, it was good in it ſelf; the Miracles done in favour of it did teſtify it, and all that our Author ſays againſt it is falſe and abominable. SECT. 15.

If I lay aſide the word *Miraculous*, as put in by chance, 'twill be hard to know how God (who in the uſual courſe of his Providence guides all things by ſuch a gentle and undiſcern'd Power, that they ſeem to go on of themſelves) ſhould give ſuch vertue to this popular Government, and the Magiſtrats bred up under it, that the greateſt Monarchs of the Earth were as duſt before them, unleſs there had bin an excellency in their Diſciplin, far ſurpaſſing that of their Enemys; or how that can be call'd ill in its Principle, and ſaid to comprehend no good, which God did ſo gloriouſly ſupport, and no man was ever able to reſiſt. This cannot be better anſwer'd than by our Author's Citation, *Suis & ipſa Roma viribus ruit*; That City which had overthrown the greateſt Powers of the World muſt, in all appearance, have laſted for ever, if their Vertue and Diſciplin had not decay'd, or their Forces bin turn'd againſt themſelves. If our Author therefore ſay true, the greateſt good that ever befel the *Romans*, was the decay of their Vertue and Diſciplin; and the turning of their own Arms againſt themſelves, was not their Ruin but their Preſervation.

When they had brought the warlike Nations of *Italy* into ſubjection, or aſſociation; often repreſt the fury of the *Gauls*, *Cimbri* and *Teutons*; overthrown the Wealth, Power and Wit of *Carthage*, ſupported by the Skill, Induſtry and Valour of *Hannibal* and his brave Relations; almoſt extirpated the valiant *Spaniards*, who would no other way be ſubdu'd; defeated *Philip*, *Perſes*, *Antiochus*, *Gentius*, *Syphax* and *Jugurtha*; ſtruck an aw into *Ptolomy*; avoided the ſnares and poiſons of *Mithridates*; follow'd him in his Flights, reveng'd his Treacherys, and carry'd their victorious Arms beyond his conquer'd Kingdoms to the Banks of *Tygris*: When neither the Revolt of their *Italian* Aſſociats, nor the Rebellion of their Slaves led by *Spartacus* (who in skill ſeems to have bin equal to *Hannibal*, and above him in Courage) could put a ſtop to their Victorys: When *Greece* had bin reduc'd to yield to a Vertue rather than a Power greater than their own, we may well ſay that Government was ſupported by a more than human prudence, which led them thro Vertue to a height of Glory, Power and Happineſs, that till that day had bin unknown to the World, and could never have bin ruin'd, if by the decay of that Vertue they had not turn'd their victorious Arms againſt themſelves. That City was a Giant that could die by no other hand than his own; like *Hercules* poiſon'd and driven into madneſs, after he had deſtroy'd Thieves, Monſters and Tyrants, and found nothing on the Earth able to reſiſt him. The wiſeſt of men in antient times, looking upon this as a point of more than human Perfection, thought or feign'd to think, that he was deſcended from the Gods, and at his death receiv'd into their number, tho perhaps *Filmer* would prefer a weak, baſe and effeminate Slave before him. The matter will not be much different, if we adhere to the foremention'd ſimilitude of the *Athletick Habit*; for the danger proceeds only from the perfection of it, and he who diſlikes it, muſt commend that Weakneſs and Vice which may periſh, but can ne-

CHAP. II.

ver be chang'd into any thing worse than it self, as those that lie upon the ground can never fall. However this Fall of the *Romans*, which our Author, speaking truth against his will, calls their Ruin, was into that which he recommends as the Ordinance of God: Which is as much as to say, that they were ruin'd when they fell from their own unnatural Inventions to follow the Law of God and of Nature; that Luxury also thro which they fell, was the product of their Felicity; and that the Nations that had bin subdu'd by them, had no other way of avenging their Defeats, than by alluring their Masters to their own Vices: This was the Root of their Civil Wars. When that proud City found no more resistance, it grew * wanton. Honest Poverty became uneasy, when Honours were given to ill-gotten Riches. This was so Monarchical, that a People infected with such a Custom must needs fall by it. They who by Vice had exhausted their Fortunes, could repair them only by bringing their Country under a Government that would give impunity to Rapine; and such as had not Vertues to deserve Advancement from the Senat and People, would always endeavour to set up a Man that would bestow the Honours due to Vertue, upon those who would be most abjectly subservient to his Will and Interests. When mens minds are fill'd with this Fury, they sacrifice the common Good to the advancement of their private Concernments. This was the temper of *Catiline* expreſt by *Sallust*, *Luxuria principi gravis, paupertas vix à privato toleranda*; and this put him upon that desperate extremity to say, *Incendium meum ruinâ extinguam.* Others in the same manner being fill'd with the same rage, he could not want Companions in his most villanous Designs. 'Tis not long since a Person of the highest Quality, and no less famous for Learning and Wit, having observ'd the State of *England*, as it stood not many years ago, and that to which it has bin reduc'd since the year sixty, as is thought very much by the Advice and Example of *France*, said, That they were now taking a most cruel Vengeance upon us for all the Overthrows receiv'd from our Ancestors, by introducing their most damnable Maxims, and teaching us the worst of their Vices. 'Tis not for me to determin whether this Judgment was rightly made or not; for I intend not to speak of our Affairs: but all Historians agreeing, that the change of the *Roman* Government was wrought by such means as I have mention'd; and our Author acknowledging that change to have bin their ruin, as in truth it was, I may justly conclude, that the overthrow of that Government could not have bin a ruin to them, but good for them, unless it had bin good; and that the Power which did ruin it, and was set up in the room of it, cannot have bin according to the Laws of God or Nature, for they confer only that which is good, and destroy nothing that is so; but must have bin most contrary to that good which was overthrown by it.

Sallust. Bell. Catilin.

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* ——— Sævior armis
Luxuria incubuit, victumq; ulciscitur orbem. *Lucan.*

SECT. XVI.

The beſt Governments of the World have bin compos'd of Monarchy, Ariſtocracy, and Democracy.

OUR Author's cavils concerning I know not what vulgar Opinions that Democracys were introduc'd to curb Tyranny, deſerve no anſwer; for our queſtion is, Whether one form of Government be preſcrib'd to us by God and Nature, or we are left according to our own underſtanding, to conſtitute ſuch as ſeem beſt to our ſelves. As for Democracy, he may ſay what pleaſes him of it; and I believe it can ſute only with the convenience of a ſmall Town, accompany'd with ſuch Circumſtances as are ſeldom found. But this no way obliges men to run into the other extreme, in as much as the variety of Forms between mere Democracy and Abſolute Monarchy is almoſt infinite: And if I ſhould undertake to ſay, there never was a good Government in the world, that did not conſiſt of the three ſimple Species of Monarchy, Ariſtocracy and Democracy, I think I might make it good. This at the leaſt is certain, that the Government of the *Hebrews* inſtituted by God, had a Judg, the great *Sanhedrin*, and General Aſſemblys of the People: *Sparta* had two Kings, a Senat of twenty eight choſen Men, and the like Aſſemblys: All the *Dorian* Citys had a chief Magiſtrat, a Senat, and occaſional Aſſemblys: The *Ionian*, *Athens*, and others, had an *Archon*, the *Areopagi*; and all Judgments concerning matters of the greateſt importance, as well as the Election of Magiſtrats, were refer'd to the People. *Rome* in the beginning had a King and a Senat, whilſt the Election of Kings, and Judgments upon Appeals remain'd in the People; afterwards Conſuls repreſenting Kings, and veſted with equal Power, a more numerous Senat, and more frequent meetings of the People. *Venice* has at this day a Duke, the Senat of the *Pregadi*, and the Great Aſſembly of the Nobility, which is the whole City, the reſt of the Inhabitants being only *Incolæ*, not *Cives*; and thoſe of the other Citys or Countrys are their Subjects, and do not participate of the Government. *Genoa* is govern'd in like manner: *Luca* not unlike to them. *Germany* is at this day govern'd by an Emperor, the Princes or great Lords in their ſeveral Precincts, the Citys by their own Magiſtrats, and by general Diets, in which the whole Power of the Nation reſides, and where the Emperor, Princes, Nobility, and Citys have their places in perſon, or by their Deputys. All the Northern Nations, which upon the diſſolution of the *Roman* Empire poſſeſt the beſt Provinces that had compos'd it, were under that form which is uſually call'd the *Gothick* Polity: They had King, Lords, Commons, Diets, Aſſemblys of Eſtates, Cortez, and Parliaments, in which the Sovereign Powers of thoſe Nations did reſide, and by which they were exercis'd. The like was practis'd in *Hungary*, *Bohemia*, *Sweden*, *Denmark*, *Poland*; and if things are chang'd in ſome of theſe places within a few years, they muſt give better proofs of having gain'd by the change than are yet ſeen in the World, before I think my ſelf oblig'd to change my opinion.

Some Nations not liking the name of King, have given ſuch a power as Kings enjoy'd in other places to one or more Magiſtrats, either limited

CHAP. II.

to a certain time, or left to be perpetual, as beſt pleas'd themſelves: Others approving the Name, made the Dignity purely elective. Some have in their Elections principally regarded one Family as long as it laſted: Others conſider'd nothing but the fitneſs of the Perſon, and reſerv'd to themſelves a Liberty of taking where they pleas'd. Some have permitted the Crown to be hereditary as to its ordinary courſe; but reſtrain'd the Power, and inſtituted Officers to inſpect the Proceedings of Kings, and to take care that the Laws were not violated: Of this ſort were the *Ephori* of *Sparta*, the *Maires du Palais*, and afterwards the Conſtable of *France*; the *Juſticia* in *Arragon*; the *Rijcſhofmeiſter* in *Denmark*; the High Steward in *England*; and in all places ſuch Aſſemblys as are before mention'd under ſeveral names, who had the Power of the whole Nation. Some have continu'd long, and it may be always in the ſame form; others have chang'd it: Some being incens'd againſt their Kings, as the *Romans* exaſperated by the Villanys of *Tarquin*, and the *Tuſcans* by the Crueltys of *Mezentius*, aboliſh'd the name of King: Others, as *Athens*, *Sicion*, *Argos*, *Corinth*, *Thebes*, and the *Latins*, did not ſtay for ſuch extremitys; but ſet up other Governments when they thought it beſt for themſelves, and by this conduct prevented the evils that uſually fall upon Nations, when their Kings degenerate into Tyrants, and a Nation is brought to enter into a War by which all may be loſt, and nothing can be gain'd which was not their own before. The *Romans* took not this ſalutary Courſe; the miſchief was grown up before they perceiv'd, or ſet themſelves againſt it; and when the effects of Pride, Avarice, Cruelty and Luſt were grown to ſuch a height, that they could no longer be endur'd, they could not free themſelves without a War: and whereas upon other occaſions their Victorys had brought them increaſe of Strength, Territory, and Glory; the only reward of their Vertue in this was, to be deliver'd from a Plague they had unadviſedly ſuffer'd to grow up among them. I confeſs this was moſt of all to be eſteem'd; for if they had bin overthrown, their condition under *Tarquin* would have bin more intolerable than if they had fallen under the power of *Pirrhus* or *Hannibal*; and all their following Proſperity was the fruit of their recover'd Liberty: But it had bin much better to have reform'd the State after the death of one of their good Kings, than to be brought to fight for their Lives againſt that abominable Tyrant. Our Author in purſuance of his averſion to all that is good, diſapproves this; and wanting reaſons to juſtify his diſlike, according to the cuſtom of Impoſtors and Cheats, has recourſe to the ugly terms of a *Back-door*, *Sedition*, and *Faction*: as if it were not as juſt for a People to lay aſide their Kings when they receive nothing but evil, and can rationally hope for no benefit by them, as for others to ſet them up in expectation of good from them. But if the truth be examin'd, nothing will be found more orderly than the changes of Government, or of the Perſons and Races of thoſe that govern'd, which have bin made by many Nations. When *Pharamond*'s Grandſon ſeem'd not to deſerve the Crown he had worn, the *French* gave it to *Meroveus*, who more reſembled him in Vertue: In proceſs of time when this Race alſo degenerated, they were rejected, and *Pepin* advanc'd to the Throne; and the moſt remote in blood of his Deſcendents having often bin prefer'd before the neareſt, and Baſtards before the legitimate Iſſue, they were at laſt all laid aſide; and the Crown remains to this day in the Family of *Hugh Capet*, upon whom it was beſtow'd on the rejection of *Charles* of *Lorrain*. In like manner the *Caſtilians* took *Don Sancho* ſirnam'd the Brave, ſecond Son to *Alphonſo* the Wiſe,

Wiſe, before *Alphonſo el Deſheredado*, Son of the elder Brother *Ferdinand*. SECT. 16.
The States of *Arragon* prefer'd *Martin*, Brother to *John* the firſt, before *Mary* his Daughter marry'd to the Count *de Foix*, tho Females were not excluded from the Succeſſion; and the Houſe of *Auſtria* now enjoys that Crown from *Joan* Daughter to *Ferdinand*. In that and many other Kingdoms, Baſtards have bin advanc'd before their legitimate Brothers. *Henry* Count of *Traſtamara*, Baſtard to *Alphonſo* XI. King of *Caſtile*, receiv'd the Crown as a reward of the good Service he had done to his Country againſt his Brother *Peter* the Cruel, without any regard had to the Houſe of *La Cerda* deſcended from *Alphonſo el Deſheredado*, which to this day never enjoy'd any greater honour than that of Duke *de Medina Celi*. Not long after the *Portugueſe* conceiving a diſlike of their King *Ferdinand*, and his Daughter marry'd to *John* King of *Caſtile*, rejected her and her Uncle by the Father's ſide, and gave the Crown to *John* a Knight of *Calatrava*, and Baſtard to an Uncle of *Ferdinand* their King. About the beginning of this age the *Swedes* depos'd their King *Sigiſmund* for being a Papiſt, and made *Charles* his Uncle King. Divers Examples of the like nature in *England* have bin already mention'd. All theſe tranſportations of Crowns were Acts perform'd by Aſſemblys of the three Eſtates in the ſeveral Kingdoms, and theſe Crowns are to this day enjoy'd under Titles deriv'd from ſuch as were thus brought in by the depoſition or rejection of thoſe, who according to deſcent of blood had better Titles than the preſent Poſſeſſors. The Acts therefore were lawful and good, or they can have no Title at all; and they who made 'em, had a juſt power ſo to do.

If our Author can draw any advantage from the reſemblance of Regality that he finds in the *Roman* Conſuls and *Athenian* Archons, I ſhall without envy leave him the enjoyment of it; but I am much miſtaken if that dos not prove my aſſertion, that thoſe Governments *were compos'd of the three ſimple ſpecies:* for if the Monarchical part was in them, it cannot be deny'd that the Ariſtocratical was in the Senat or *Areopagi*, and the Democratical in the People. But he ought to have remember'd, that if there was ſomething of Monarchical in thoſe Governments when they are ſaid to have bin Popular, there was ſomething of Ariſtocratical and Democratical in thoſe that were call'd Regal; which juſtifys my propoſition on both ſides, and ſhews that the denomination was taken from the part that prevail'd: and if this were not ſo, the Governments of *France*, *Spain*, and *Germany* might be call'd Democracys, and thoſe of *Rome* and *Athens* Monarchys, becauſe the People have a part in the one, and an image of Monarchy was preſerv'd in the other.

If our Author will not allow the caſes to be altogether equal, I think he will find no other difference, than that the Conſuls and Archons were regularly made by the Votes of the conſenting People, and orderly reſign'd their Power, when the time was expir'd for which it was given; whereas *Tarquin*, *Dionyſius*, *Agathocles*, *Nabis*, *Phalaris*, *Ceſar*, and almoſt all his Succeſſors, whom he takes for compleat Monarchs, came in by violence, fraud, and corruption, by the help of the worſt men, by the ſlaughter of the beſt, and moſt commonly (when the method was once eſtabliſh'd) by that of his Predeceſſor, who, if our Author ſays true, was the Father of his Country, and his alſo. This was the root and foundation of the only Government that deſerves praiſe: this is that which ſtampt the divine character upon *Agathocles*, *Dionyſius* and *Ceſar*, and that had beſtow'd the ſame upon *Manlius*, *Marius*, or *Catiline*, if they had gain'd the Monarchys they affected. But I ſuppoſe that ſuch as

CHAP. II. God has bleſt with better judgment, and a due regard to Juſtice and Truth, will ſay, that all thoſe who have attain'd to ſuch greatneſs as deſtroys all manner of good in the places where they have ſet up themſelves by the moſt deteſtable Villanys, came in by a *backdoor*; and that ſuch Magiſtrats as were orderly choſen by a willing People, were the true Shepherds who came in by the gate of the Sheepfold, and might juſtly be call'd the Miniſters of God, ſo long as they perform'd their duty in providing for the good of the Nations committed to their charge.

SECT. XVII.

Good Governments admit of Changes in the Superſtructures, whilſt the Foundations remain unchangeable.

IF I go a ſtep farther, and confeſs the *Romans* made ſome changes in the outward Form of their Government, I may ſafely ſay they did well in it, and proſper'd by it. After the Expulſion of the Kings, the Power was chiefly in the Nobility, who had bin Leaders of the People; but it was neceſſary to humble them, when they began to preſume too much upon the advantages of their Birth; and the City could never have bin great, unleſs the Plebeians who were the Body of it, and the main ſtrength of their Armys, had bin admitted to a participation of Honours. This could not be done at the firſt: They who had bin ſo vilely oppreſt by *Tarquin*, and haraſs'd with making or cleanſing Sinks, were not then fit for Magiſtracys, or the Command of Armys: but they could not juſtly be excluded from them, when they had men who in courage and conduct were equal to the beſt of the Patricians; and it had bin abſurd for any man to think it a diſparagement to him to marry the Daughter of one whom he had obey'd as Dictator or Conſul, and perhaps follow'd in his Triumph. *Rome* that was conſtituted for War, and ſought its Grandeur by that means, could never have arriv'd to any conſiderable height, if the People had not bin exercis'd in Arms, and their Spirits rais'd to delight in Conqueſts, and willing to expoſe themſelves to the greateſt fatigues and dangers to accompliſh them. Such men as theſe were not to be us'd like Slaves, or oppreſt by the unmerciful hand of Uſurers. They who by their ſweat and blood were to defend and enlarge the Territorys of the State, were to be convinc'd they fought for themſelves; and they had reaſon to demand a Magiſtracy of their own, veſted with a Power that none might offend, to maintain their Rights, and to protect their Familys whilſt they were abroad in the Armys. Theſe were the Tribuns of the People, made, as they call'd it, *Sacroſancti* or inviolable; and the creation of them was the moſt conſiderable Change that happen'd till the time of *Marius*, who brought all into diſorder. The creation or abolition of Military Tribuns with Conſular Power, ought to be accounted as nothing; for it imported little whether that Authority were exercis'd by two, or by five: That of the *Decemviri* was as little to be regarded: they were intended only for a Year; and tho new ones were created for another, on pretence the Laws they were to frame could not be brought to perfection in ſo ſhort a time, yet they were ſoon thrown down from the Power they uſurp'd, and endeavour'd to retain contrary to Law: The creation of Dictators was no novelty, they were

were made occaſionally from the beginning, and never otherwiſe than occaſionally, till *Julius Ceſar* ſubverted all order, and invading that ſupreme Magiſtracy by force *, uſurp'd the Right which belong'd to all. This indeed was a mortal Change even in root and principle. All other Magiſtrats had bin created by the People for the publick good, and always were within the power of thoſe that had created them. But *Ceſar* coming in by force, ſought only the ſatisfaction of his own raging Ambition, or that of the Soldiers, whom he had corrupted to deſtroy their Country; and his Succeſſors governing for themſelves by the help of the like Villains, perpetually expos'd the Empire to be ravag'd by them. But whatever opinion any man may have of the other Changes, I dare affirm, there are few or no Monarchys (whoſe Hiſtorys are ſo well known to us as that of *Rome*) which have not ſuffer'd Changes incomparably greater and more miſchievous than thoſe of *Rome* whilſt it was free. The *Macedonian* Monarchy fell into pieces immediately after the death of *Alexander*: 'Tis thought he periſh'd by Poiſon: His Wives, Children and Mother, were deſtroy'd by his own Captains: The beſt of thoſe who had eſcap'd his fury, fell by the Sword of each other. When the famous *Argyraſpides* might have expected ſome Reward of their labours, and a little reſt in old age, they were maliciouſly ſent into the Eaſt by *Antigonus*, to periſh by hunger and miſery, after he had corrupted them to betray *Eumenes*. No better fate attended the reſt; all was in confuſion, every one follow'd whom he pleas'd, and all of them ſeem'd to be fill'd with ſuch a rage, that they never ceas'd from mutual ſlaughters till they were conſum'd; and their Kingdoms continu'd in perpetual Wars againſt each other, till they all fell under the *Roman* Power. The fortune of *Rome* was the ſame after it became a Monarchy: Treachery, Murder and Fury, reign'd in every part; there was no Law but Force; he that could corrupt an Army, thought he had a ſufficient Title to the Empire: by this means there were frequently three or four, and at one time thirty ſeveral Pretenders, who call'd themſelves Emperors; of which number he only reign'd that had the happineſs to deſtroy all his Competitors; and he himſelf continu'd no longer than till another durſt attempt the deſtruction of him and his Poſterity. In this ſtate they remain'd, till the waſted and bloodleſs Provinces were poſſeſt by a multitude of barbarous Nations. The Kingdoms eſtabliſh'd by them enjoy'd as little Peace or Juſtice; that of *France* was frequently divided into as many parts as the Kings of *Meroveus* or *Pepin*'s Race had Children, under the names of the Kingdoms of *Paris*, *Orleans*, *Soiſſons*, *Arles*, *Burgundy*, *Auſtraſia*, and others: Theſe were perpetually vex'd by the unnatural fury of Brothers or neareſt Relations, whilſt the miſerable Nobility and People were oblig'd to fight upon their fooliſh Quarrels, till all fell under the power of the ſtrongeſt. This miſchief was in ſome meaſure cur'd by a Law made in the time of *Hugh Capet*, that the Kingdom ſhould no more be divided: But the *Appanages*, as they call them, granted to the King's Brothers, with the ſeveral Dukedoms and Earldoms erected to pleaſe them and other great Lords, produc'd frequently almoſt as bad effects. This is teſtify'd by the deſperate and mortal Factions, that went under the names of *Burgundy* and *Orleans*, *Armagnac* and *Orleans*, *Montmorency* and *Guiſe*: Theſe were follow'd by thoſe of the League, and the Wars of the *Hugonots*: They

SECT. 17.

* Jura omnium in ſe traxit. *Suet.*

were

CHAP. II.

were no ſooner finiſh'd by the taking of *Rochel*, but new ones began by the Intrigues of the Duke of *Orleans*, Brother to *Lewis* the *13th*, and his Mother; and purſu'd with that animoſity by them, that they put themſelves under the protection of *Spain*: To which may be added, that the Houſes of *Conde*, *Soiſſons*, *Montmorency*, *Guiſe*, *Vendoſme*, *Angouleme*, *Bouillon*, *Rohan*, *Longueville*, *Rochefocault*, *Epernon*, and I think I may ſay every one that is of great eminency in that Kingdom, with the Citys of *Paris*, *Bourdeaux*, and many others, in the ſpace of theſe laſt fifty years, have ſided with the perpetual Enemys of their own Country.

Again, other great Alterations have happen'd within the ſame Kingdom: The Races of Kings four times wholly chang'd: Five Kings depos'd in leſs than 150 Years after the death of *Charles* the Great: The Offices of *Maire du Palais*, and Conſtable, erected and laid aſide: The great Dukedoms and Earldoms, little inferior to Sovereign Principalitys, eſtabliſh'd and ſuppreſt: The deciſion of all Cauſes, and the execution of the Laws, plac'd abſolutely in the hands of the Nobility, their Deputys, Seneſchals, or Vice-Seneſchals, and taken from them again: Parliaments ſet up to receive Appeals from the other Courts, and to judg ſovereignly in all caſes, expreſly to curb them: The Power of theſe Parliaments, after they had cruſh'd the Nobility, brought ſo low, that within the laſt twenty years they are made to regiſter, and give the Power of Laws, to Edicts, of which the Titles only are read to them; and the General Aſſemblys of Eſtates, that from the time of *Pepin* had the Power of the Nation in their hands, are now brought to nothing, and almoſt forgotten.

Tho I mention theſe things, 'tis not with a deſign of blaming them, for ſome of them deſerve it not; and it ought to be conſider'd, that the Wiſdom of man is imperfect, and unable to foreſee the Effects that may proceed from an infinite variety of Accidents, which according to Emergences, neceſſarily require new Conſtitutions, to prevent or cure the miſchiefs ariſing from them, or to advance a good that at the firſt was not thought on: And as the nobleſt work in which the Wit of man can be exercis'd, were (if it could be done) to conſtitute a Government that ſhould laſt for ever, the next to that is to ſute Laws to preſent Exigences, and ſo much as is in the power of man to foreſee: And he that ſhould reſolve to perſiſt obſtinately in the way he firſt enter'd upon, or to blame thoſe who go out of that in which their Fathers had walk'd, when they find it neceſſary, dos as far as in him lies, render the worſt of Errors perpetual. Changes therefore are unavoidable, and the Wit of man can go no farther than to inſtitute ſuch, as in relation to the Forces, Manners, Nature, Religion or Intereſts of a People and their Neighbours, are ſutable and adequate to what is ſeen, or apprehended to be ſeen: And he who would oblige all Nations at all times to take the ſame courſe, would prove as fooliſh as a Phyſician who ſhould apply the ſame Medicin to all Diſtempers, or an Architect that would build the ſame kind of Houſe for all Perſons, without conſidering their Eſtates, Dignitys, the number of their Children or Servants, the Time or Climate in which they live, and many other Circumſtances; or, which is, if poſſible, more ſottiſh, a General who ſhould obſtinately reſolve always to make War in the ſame way, and to draw up his Army in the ſame form, without examining the nature, number and ſtrength of his own and his Enemys Forces, or the advantages and diſadvantages of the Ground. But as there may be ſome univerſal Rules in Phyſick, Architecture and Military Diſciplin, from which men ought never to depart; ſo there are ſome in Politicks alſo,

which

which ought always to be observ'd: and wise Legislators adhering to them only, will be ready to change all others as occasion may require, in order to the publick Good. This we may learn from *Moses*, who laying the Foundation of the Law given to the *Israelites* in that Justice, Charity and Truth, which having its root in God, is subject to no change, left them the liberty of having Judges or no Judges, Kings or no Kings, or to give the Sovereign Power to High Priests or Captains, as best pleas'd themselves; and the Mischiefs they afterwards suffer'd, proceeded not simply from changing, but changing for the worse. The like judgment may be made of the Alterations that have happen'd in other places. They who aim at the publick Good, and wisely institute means proportionable and adequate to the attainment of it, deserve praise; and those only are to be dislik'd, who either foolishly or maliciously set up a corrupt private Interest in one or a few men. Whosoever therefore would judg of the *Roman* Changes, may see, that expelling the *Tarquins*, creating Consuls, abating the violence of Usurers, admitting *Plebeians* to marry with the *Patricians*, rendring them capable of Magistracys, deducing Colonys, dividing Lands gain'd from their Enemys, erecting Tribuns to defend the Rights of the Commons, appointing the *Decemviri* to regulate the Law, and abrogating their Power when they abus'd it, creating Dictators and Military Tribuns with a Consular Power, as occasions requir'd; they acted in the face of the Sun for the good of the Publick; and such Acts having always produc'd Effects sutable to the rectitude of their Intentions, they consequently deserve praise. But when another Principle began to govern, all things were chang'd in a very different manner: Evil Designs, tending only to the advancement of private Interests, were carry'd on in the dark by means as wicked as the end. If *Tarquin* when he had a mind to be King, poison'd his first Wife and his Brother, contracted an incestuous Marriage with his second by the death of her first Husband, murder'd her Father and the best men in *Rome*, yet *Cesar* did worse: He favour'd *Catiline* and his villanous Associats, brib'd and corrupted Magistrats; conspir'd with *Crassus* and *Pompey*; continu'd in the Command of an Army beyond the time prescrib'd by Law, and turn'd the Arms with which he had bin intrusted for the service of the Commonwealth, to the destruction of it; which was rightly represented by his Dream, that he had constuprated his Mother: In the like manner when *Octavius*, *Antonius* and *Lepidus*, divided the Empire, and then quarrel'd among themselves; and when *Galba*, *Otho*, *Vitellius* and *Vespasian* set up Partys in several Provinces, all was manag'd with Treachery, Fraud and Cruelty; nothing was intended but the advancement of one Man, and the Recompence of the Villains that serv'd him: And when the Empire had suffer'd infinite Calamitys by pulling down or rejecting one, and setting up another, it was for the most part difficult to determin who was the worst of the two; or whether the prevailing side had gain'd or lost by their Victory. The question therefore upon which a Judgment may be made to the praise or dispraise of the *Roman* Government, before or after the loss of their Liberty, ought not to be, Whether either were subject to changes, for neither they nor any thing under the Sun was ever exempted from them; but whether the Changes that happen'd after the establishment of Absolute Power in the Emperors, did not solely proceed from Ambition, and tend to the publick Ruin: whereas those Alterations related by our Author concerning Consuls, Dictators, *Decemviri*, Tribunes and Laws, were far more rare, less violent, tending to, and procuring the publick Good, and there-

SECT. 17.

CHAP. II. fore deſerving praiſe. The like having bin prov'd by the Examples of other Kingdoms, and might be farther confirm'd by many more, which on account of brevity I omit, is in my opinion ſufficient to manifeſt, that whilſt the Foundation and Principle of a Government remains good, the Superſtructures may be chang'd according to occaſions, without any prejudice to it.

SECT. XVIII.

Xenophon *in blaming the Diſorders of Democracys, favours Ariſtocracys, not Monarchys.*

IN the next place our Author introduces *Xenophon diſallowing Popular Governments:* Cites *Rome* and *Athens* as Places *where the beſt Men thriv'd worſt, and the worſt beſt*; and condemns the *Romans* for making it capital to paſs Sentence *of Death, Baniſhment, loſs of Liberty, or Stripes upon any Citizen of* Rome. But leſt his Fraud in this ſhould be detected, he cites no preciſe Paſſage of any Author, alledges few Examples, and thoſe miſtaken; never tells us what that Law was, when made, or where to be found: whereas I hope to prove, that he has upon the whole matter abominably prevaricated, and advanc'd things that he knows to be either impertinent or falſe.

1. To this end we are in the firſt place to conſider, whether *Xenophon* ſpeaks of Popular Governments ſimply, or comparatively: if ſimply, 'tis confeſt that a pure Democracy can never be good, unleſs for a ſmall Town; if comparatively, we muſt examin to what he compares it: We are ſure it was not to Abſolute Monarchy; there was no ſuch thing amongſt the *Greeks* eſtabliſh'd by Law: The little Tyrants who had enſlav'd their own Countrys, as *Jaſon, Phæreus, Phalaris*, and the like, had no pretence to it, and were accounted as the worſt of Beaſts: None but ſuch as in all beſtiality were like to 'em, did ever ſpeak or think well of them. *Xenophon*'s Opinion in this point, may be eaſily found out by what paſs'd between his Maſter *Plato* and the *Sicilian* Tyrant; and the matter will not be mended by referring to his own experience: He had ſeen the vaſt Monarchy of *Perſia* torn in pieces by the fury of two Brothers, and more than a million of men brought to fight upon their private quarrel: Inſtead of that Order, Stability and Strength which our Author aſcribes to Abſolute Monarchy as the effect of Wiſdom and Juſtice, he knew, that by filling one man with pride and cruelty, it brought unſpeakable miſerys upon all others, and infected 'em with all the Vices that accompany Slavery: Men liv'd like Fiſhes, the great ones devour'd the ſmall; and as appear'd by *Tiſſaphernes, Pharnabazus*, and others with whom he had to deal, the worſt and baſeſt were made to be the greateſt: The *Satrapes* inſulted over thoſe of meaner rank, with an inſolence and cruelty that equal'd the depth of their ſervil ſubmiſſion to their proud Maſter. Luxury and Avarice reign'd in all: many great Nations were made to live for the ſervice of one man, and to foment his Vices. This produc'd weakneſs and cowardice; no number of thoſe Slaves were able to ſtand againſt a few free *Grecians*. No man knew this better than *Xenophon*, who after the death of *Cyrus* the younger, and the treacherous murder of *Clearchus*, and other Officers that commanded the *Greeks* who had

had ſerv'd him, made his retreat from *Babylon* to the *Helleſpont* with ten thouſand foot, and paſſed over the bellys of all that dar'd to oppoſe him. He would never have ſpent his life in exciting his Countrymen to attempt the Conqueſt of *Aſia*, nor perſuaded *Ageſilaus* to put himſelf at the head of the Enterprize, if he had thought there was ſuch admirable Order, Stability and Strength in that Monarchy, and in the *Greeks* nothing but *giddineſs of Spirit, and ſo much Learning as made them ſeditious:* Nor could he, being a wiſe man and an excellent Captain, have conceiv'd ſuch a deſign, if he had not by experience found that Liberty inſpir'd his Countrymen with ſuch ſolid Vertue, and produc'd ſuch Stability, good Order and Strength, that with ſmall numbers of them he might hope to overthrow the vain Pomp of the *Barbarians*, and to poſſeſs himſelf of their Riches, tho they could bring more than a hundred men to fight againſt one; which Deſign being interrupted in his time by domeſtick Wars, was ſoon after his death accompliſh'd by *Alexander*. SECT. 18.

But that *Xenophon*'s meaning may be better underſtood, 'tis good to conſider, that he ſpoke of ſuch Governments as were then in uſe among the *Greeks*; which tho mix'd, yet took their denomination from the prevailing part: ſo that the *Dorians*, who plac'd the Power chiefly in the hands of a few choſen men, were ſaid to be govern'd Ariſtocratically; and the *Ionians* giving more Power to the common People, Democratically: And he, tho an *Ionian*, either thro friendſhip to *Ageſilaus*, converſation with the *Spartans*, or for other reaſons beſt known to himſelf, prefer'd the Government of *Sparta*, or ſome other which he thought he could frame, and deſir'd to introduce, before that of *Athens*; as *Cimon*, *Thucydides*, and many other excellent men of that City are ſaid to have done: And if I acknowledg they were in the right, and that *Athens* was more ſubject to diſorder, and had leſs Stability than *Sparta*, I think it will be of little advantage to Abſolute Monarchy.

2. The *Athenians* did baniſh ſome worthy men, and put others to death; but our Author, like the Devil, never ſpeaking truth, unleſs to turn it into a lie, prevaricates in his report of them. The temporary baniſhment, which they call'd *Oſtraciſm*, was without hurt or diſhonour, never accounted as a Puniſhment, nor intended for any other end, than to put a ſtop to the too eminent greatneſs of a man, that might prove dangerous to the City; and ſome excellent Perſons who fell under it, were ſoon recall'd, and brought home with glory. But I am not ſolicitous whether that reaſon be ſufficient to juſtify it or not: We are upon a general *Theſis* relating to the Laws of God and Nature; and if the *Athenians*, by a fancy of their own, did make an imprudent uſe of their Liberty, it cannot prejudice the publick Cauſe. They who make the worſt of it can only ſay, that by ſuch means they, for a time, depriv'd themſelves of the benefits they might have receiv'd from the Vertues of ſome excellent men, to the hurt of none but themſelves; and the application of it as an injuſtice done to *Themiſtocles*, is abſolutely falſe: He was a man of great Wit, Induſtry and Valour, but of uncertain Faith, too much addicted to his own Intereſt, and held a moſt dangerous Correſpondence with the *Perſians*, who then threaten'd the deſtruction of *Greece*. Thro envy and ſpite to *Ariſtides*, and to increaſe his own Power, he rais'd dangerous Factions in the City, and being ſummon'd to render an account of his Proceedings, he declin'd the Judgment of his Country, fled to their Enemys, and juſtly deſerv'd the Sentence pronounc'd againſt him. Some among them were unjuſtly put to death, and above all *Socrates*; but the People, Plut. in vit. Themiſt.

CHAP. II.

who, deceiv'd by falſe Witneſſes, (againſt whom neither the Laws of God or Man have ever preſcrib'd a ſufficient defence) had condemn'd him, did ſo much lament their Crime, when the truth was diſcover'd to them, that I doubt whether a more righteous Judgment had given better teſtimony of their righteous Intentions. But our Author's impudence appears in the higheſt exceſs, in imputing the death of *Phocion* to the popular State of *Athens*: Their Forces had bin broken in the *Sicilian* War; the City taken, and the principal Men ſlain by *Lyſander*; the remains of the moſt Worthy deſtroy'd by the thirty Tyrants ſet up by him; their ill-recover'd Liberty overthrown by the *Macedonians*, and the death of *Phocion* compaſt by *Polyperchon*, who with Foreign Soldiers, Slaves, Vagabonds, and Outlaws, overpower'd the People.

The proceedings of *Rome* may be more compleatly juſtify'd: *Coriolanus* was duly condemn'd, he ſet too great a price upon his own Valour, and arrogated to himſelf a Power in *Rome*, which would hardly have bin indur'd in *Corioli*: His violence and pride overbalanc'd his Services; and he that would ſubmit to no Law, was juſtly driven out from the Society which could ſubſiſt only by Law. *Quintius* was not unlike him, and *Manlius Capitolinus* far worſe than either. Their Vertues were not to be conſider'd when they departed from them. Conſideration ought to be had of human frailty, and ſome indulgence may be extended to thoſe who commit Errors, after having done important Services; but a State cannot ſubſiſt, which compenſating evil Actions with good, gives impunity to the moſt dangerous Crimes, in remembrance of any Services whatever. He that dos well, performs his Duty, and ought always to do ſo: Juſtice and Prudence concur in this; and 'tis no leſs juſt than profitable, that every Action be conſider'd by it ſelf, and ſuch a reward or puniſhment allotted to it, as in nature and proportion it beſt deſerves.

This, as I ſuppoſe, is enough for their Caſes; but relates not to thoſe of *Mamercus*, *Camillus*, *Livius Salinator*, and *Emylius Paulus*; their Vertue was compleat, they were wrongfully ſentenc'd. But the beſt Princes, Senat or People that ever was in the world, by the deceit of evil men, may and have bin drawn out of the way of Juſtice: Yet of all the States that are known to us, none was ever ſo free from Crimes of malice and wilful injuſtice; none was ever guilty of ſo few Errors as that of *Rome*; and none did ever give better teſtimonys of Repentance, when they were diſcover'd, than the *Romans* did by the Veneration they ſhew'd to thoſe worthy Perſons, and the Honors they conſer'd upon them afterwards.

T. Liv. *Mamercus* was made Dictator, to repair the unjuſt mark of Infamy laid upon him by the Cenſors. *Camillus* being recall'd from his baniſhment, often enjoy'd the ſame honour, and died the moſt reverenc'd Man that had ever bin in that City. *Livius Salinator* was not only made Conſul after he had bin fin'd, but the People (as it were to expiate the guilt of having condemn'd him) ſuffer'd that aſperity of ſpeech and manners, which might have perſuaded ſuch as had bin leſs confident of his Vertue and their own, that he deſir'd to be reveng'd, tho it were with the ruin of the City. They dealt in the like manner with *Paulus Emylius*, repairing the injury of a Fine unduly impos'd. Their generoſity in leaving the Tribuns in the *Forum*, with their Accuſation againſt *Scipio Africanus*, and following him to celebrate an annual Sacrifice in the Capitol, in commemoration of his victory againſt *Hannibal*, was no leſs admirable than the greatneſs of his mind, who thought his Vertue ſhould be ſo well known,

that no account ought to be expected from him; which was an Error proceeding from a noble Root, but not to be born in a well-govern'd Commonwealth. The Laws that aim at the publick Good, make no diſtinction of Perſons; and none can be exempted from the Penaltys of them, otherwiſe than by approv'd Innocence, which cannot appear without a Trial: He that will not bend his mind to them, ſhakes off the equality of a Citizen, and uſurps a Power above the Law, to which no man ſubmits upon any other condition, than that none ſhould be exempted from the power of it. And *Scipio* being the firſt *Roman* that thus diſdain'd the Power of the Law, I do not know whether the prejudice brought upon the City by ſo dangerous an Example, did not outweigh all the Services he had done: Nevertheleſs the people contented with his retirement to his own houſe, and afterwards convinc'd of his Innocence, would probably (if he had not dy'd in a few months) have brought him back with the Honours that Fate reſerv'd for his aſhes. SECT. 18.

I do not at preſent remember any other eminent men, who can be ſaid in any reſpect to have *thriv'd ill*, whilſt the People and Senat of *Rome* acted freely; and if this be not ſufficient to clear the point, I deſire to know the names of thoſe *worſt men that thriv'd beſt*. If they may have bin judg'd to thrive, who were frequently advanc'd to the ſupreme Magiſtracys, and enjoy'd the chief Honors; I find no men ſo eminent as *Brutus*, *Publicola*, *Quintius Cincinnatus*, and *Capitolinus*, the two *Fabii* ſirnam'd *Maximi*, *Corvinus*, *Torquatus*, *Camillus*, and the like: and if theſe were the worſt Men that *Rome* produc'd in thoſe Ages, Valor, Wiſdom, Induſtry in the Service of their Country, and a moſt intire Love to it, muſt have bin the worſt of qualitys; and I preſume our Author may have thought them ſo, ſince they were invincible obſtacles to the introduction of that Divine Monarchy which *Appius Claudius* the Decemvir, *Manlius Capitolinus*, *Spurius Caſſius*, *Sp. Melius*, and ſome others may be thought to have affected.

However, theſe inſtances are not to be underſtood as they are ſimply in themſelves, but comparatively with what has happen'd in other places under abſolute Monarchys: for our inquiry is not after that which is perfect, well knowing that no ſuch thing is found among men; but we ſeek that human Conſtitution which is attended with the leaſt, or the moſt pardonable inconveniences. And if we find that in the ſpace of three hundred years, while the Senat, People, and legally created Magiſtrats govern'd *Rome*, not one worthy Man was put to death, not above five or ſix condemn'd to Fines by the beguil'd People, and thoſe injurys repair'd by the moſt honourable ſatisfaction that could be given; ſo that Vertue continu'd ever flouriſhing; the beſt men that could be found were put into the chief Commands, and the City was fill'd with more excellent men than were ever known to be in any other place: And on the other ſide, if the Emperors ſo ſoon as the Government was chang'd, made it their buſineſs to deſtroy the beſt, and ſo far ſucceeded in their deſign, that they left none; and never fail'd to advance the worſt, unleſs it fell out as to Queen *Katherine de Medicis*, who is ſaid never to have done any good but by miſtake, and ſome few may have prov'd better than was intended; it will appear, that our Author's Aſſertions are in the utmoſt degree falſe. Of this we need no better witneſs than *Tacitus*. The Civil Wars, and the Proſcriptions upon which he touches, are juſtly to be attributed to that Monarchy which was then ſetting up, the only queſtion being who ſhould be the Monarch, when the Liberty was already overthrown.

CHAP. II.

thrown. And if any eminent Men eſcap'd, it was much againſt the will of thoſe who had uſurp'd the Power: He acknowledges his Hiſtorys to be a continu'd relation of the ſlaughter of the moſt illuſtrious Perſons, and that in the times of which he writes, Vertue was attended with certain deſtruction. After the death of *Germanicus* and his eldeſt Children, *Valerius Aſiaticus*, *Seneca*, *Corbulo*, and an infinite number more who were thought moſt to reſemble them, found this to be true at the expence of their lives: *Nero*, in purſuance of the ſame tyrannical deſign, murder'd *Helvidius* and *Thraſeas*, that he might * *tear up Vertue by the roots*: *Domitian* ſpar'd none willingly that had either Vertue or Reputation; and tho *Trajan*, with perhaps ſome other, might grow up under him in the remote Provinces, yet no good Man could eſcape who came under his eye, and was ſo eminent as to be obſerv'd by him. Whilſt theſe, who were thought to be the beſt Men that appear'd in the *Roman* Empire, did *thrive* in this manner, *Sejanus*, *Macro*, *Narciſſus*, *Pallas*, *Tigellinus*, *Icetus*, *Vinnius*, *Laco*, and others like to 'em, had the power of the Empire in their hands. Therefore, unleſs Mankind has bin miſtaken to this day, and that theſe, who have hitherto bin accounted the worſt of Villains, were indeed the beſt Men in the world; and that thoſe deſtroy'd by them, who are thought to have bin the beſt, were truly the worſt, it cannot be deny'd that the beſt Men, during the Liberty of *Rome*, *thriv'd* beſt; that good Men ſuffer'd no indignity, unleſs by ſome fraud impos'd upon the well-meaning People; and that ſo ſoon as the Liberty was ſubverted, the worſt men *thriv'd* beſt. The beſt Men were expos'd to ſo many Calamitys and Snares, that it was thought a matter of great wonder to ſee a vertuous man die in his bed: and if the account were well made, I think it might appear, that every one of the Emperors before *Titus* ſhed more noble and innocent Blood, than *Rome* and all the Commonwealths in the world have done, whilſt they had the free enjoyment of their own Liberty. But if any man in favour of our Author ſeeks to diminiſh the vaſt diſproportion between the two differing ſorts of Government, and imputes the diſorders that happen'd in the time of the *Gracchi*, and others, whilſt *Rome* was ſtrugling for her Liberty, to the Government of a Commonwealth, he will find them no more to be compar'd with thoſe that fell out afterwards, than the railings of a turbulent Tribune againſt the Senat, to the Villanys and Crueltys that corrupted and diſpeopl'd the Provinces from *Babylon* to *Scotland*. And whereas the State never fail'd to recover from any diſorders, as long as the Root of Liberty remain'd untouch'd, and became more powerful and glorious than ever, even after the Wars of *Marius* and *Sylla*; when that was deſtroy'd, the City fell into a languiſhing condition, and grew weaker and weaker, till that and the whole Empire was ruin'd by the Barbarians.

3. Our Author, to ſhew that his memory is as good as his judgment, having repreſented *Rome* in the times of Liberty as a publick Slaughter-houſe, ſoon after blames the clemency of their Laws: whereas 'tis impoſſible that the ſame City could at the ſame time be guilty of thoſe contrary extremitys; and no leſs certain, that it was perfectly free from them both. His aſſertion ſeems to be grounded upon *Ceſar*'s Speech (related by *Salluſt*) in favour of *Lentulus* and *Cethegus* Companions of *Catiline*: but tho he there endeavour'd to put the beſt colour he could upon their cauſe, it ſignify'd only thus much, that a *Roman* Citizen could not be put to death,

Salluſt. Bell. Catilin.

* Ipſam exſcindere virtutem. *Tacit.*

† with-

without being heard in publick; which Law will diſpleaſe none that in underſtanding and integrity may not be compar'd to *Filmer* and his Followers. 'Tis a folly to extend it farther; for 'tis eaſily prov'd that there was always a power of putting Citizens to death, and that it was exercis'd when occaſion requir'd. The Laws were the ſame in the time of the Kings, when that Office was executed by Conſuls, excepting ſuch changes as are already mention'd. The *Lex perduellionis* cited by *Livy* in the caſe of *Horatius* who had kill'd his Siſter, continu'd in force from the foundation to the end of that Government: the condemnation was to death, the words of the Sentence theſe, *Caput obnubito, infelici arbore reſte ſuſpendito; verberato intra Pomærium vel extra Pomærium.* He was try'd by this Law upon an appeal made to the People by his Father, and abſolv'd *admiratione magis virtutis quam jure cauſæ*; which could not have bin, if by the Law no Citizen might be put to death. The Sons of *Brutus* were condemn'd to death in publick, and executed with the *Aquilii* and *Vitellii* their Companions in the ſame Conſpiracy: *Manlius Capitolinus* was put to death by the vote of the People: *Titus Manlius* by the command of his Father *Torquatus*, for fighting without order: Two Legions were decimated by *Appius Claudius*: *Spurius Melius* refuſing to appear before the Dictator, was kill'd by *Servilius Ahala* General of the Horſe, and pronounc'd *jure cæſum*: *Quintus Fabius* was by *Papirius* the Dictator condemn'd to die, and could not have bin ſav'd but by the interceſſion and authority of the People. If this be not ſo, I deſire to be inform'd what the Senat meant by condemning *Nero* to be put to death *more majorum*, if *more majorum* no Citizen might be put to death: Why the Conſuls, Dictators, Military Tribuns, *Decemviri*, caus'd Rods and Axes to be carry'd before them, as well within as without the City, if no uſe was to be made of 'em. Were they only vain Badges of a Power never to be executed; or upon whom was the Supreme Power ſignify'd by them, to be exercis'd within and without the City, if the Citizens were not ſubject to it? 'Tis ſtrange that a man who had ever read a Book of matters relating to the Affairs of *Rome*, ſhould fancy theſe things; or hope to impoſe them upon the World, if he knew them to be fooliſh, falſe, and abſurd. But of all the marks of a moſt ſupine ſtupidity that can be given by a man, I know none equal to this of our Author, who in the ſame Clauſe wherein he ſays no Citizen could be put to death or baniſh'd, adds, that the Magiſtrats were upon pain of death forbidden to do it; for if a Magiſtrate might be put to death for baniſhing a Citizen, or cauſing him to be executed, a Citizen might be put to death; for the Magiſtrats were not Strangers, but Citizens. If this was not ſo, he muſt think that no Crime was capital, but the puniſhment of capital Crimes; or that no man was ſubject to the Supreme Power, but he that was created for the execution of it. Yet even this will not ſtop the gap; for the Law that condemn'd the Magiſtrate to die, could be of no effect, if there were no man to execute it; and there could be none if the Law prohibited it, or that he who did it was to die for it: And this goes on to infinity. For if a Magiſtrate could not put a Citizen to death, I ſuppoſe a Citizen could not put to death a Magiſtrate; for he alſo is a Citizen. So that upon the whole matter we may conclude, that Malice is blind, and that Wickedneſs is Madneſs. 'Tis hard to ſay more in praiſe of Popular Governments than will reſult from what he ſays againſt them: his reproaches are Praiſes, and his Praiſes reproaches. As Government is inſtituted for the preſervation of the Governed, the *Romans* were ſparing

SECT. 18.

of

CHAP. II.

of Blood, and are wiſely commended by *Livy* for it: *Nulli unquam Populo mitiores placuere pœnæ*; which gentleneſs will never be blam'd, unleſs by thoſe who are pleas'd with nothing ſo much as the fury of thoſe Monſters, who with the ruin of the beſt part of Mankind, uſurp'd the dominion of that glorious City. But if the *Romans* were gentle in puniſhing Offences, they were alſo diligent in preventing them: the excellence of their Diſciplin led the Youth to Vertue, and the Honors they receiv'd for recompence confirm'd them in it. By this means many of 'em became Laws to themſelves; and they who were not the moſt excellent, were yet taught ſo much of good, that they had a veneration for thoſe they could not equal, which not only ſerv'd to incite them to do well according to their Talents, but kept them in ſuch aw as to fear incurring their ill opinion by any bad action, as much as by the penalty of the Law. This integrity of manners made the Laws as it were uſeleſs; and whilſt they ſeem'd to ſleep, ignorant perſons thought there were none: But their Diſciplin being corrupted by Proſperity, thoſe Vices came in which made way for the Monarchy; and Wickedneſs being plac'd in the Throne, there was no ſafety for any but ſuch as would be of the ſame ſpirit, and the Empire was ruin'd by it.

SECT. XIX.

That Corruption and Venality which is natural to Courts, is ſeldom found in Popular Governments.

OUR Author's next work is, with that modeſty and truth which is natural to him, to impute Corruption and Venality to Commonwealths. He knows that Monarchys are exempted from thoſe evils, and has diſcover'd this truth from the integrity obſerv'd in the modern Courts of *England*, *France*, and *Spain*, or the more antient of *Rome* and *Perſia*: But after many falſhoods in matter of fact, and miſrepreſentations of that which is true, he ſhews that the Corruption, Venality, and Violence he blames, were neither the effects of Liberty, nor conſiſtent with it. *Cneius Manlius*, who with his *Aſiatic* Army brought in the Luxury that gave birth to thoſe miſchiefs, did probably follow the looſeneſs of his own diſpoſition; yet the beſt and wiſeſt men of that time knew from the beginning that it would ruin the City, unleſs a ſtop might be put to the courſe of that evil: But they who had ſeen Kings under their feet, and could no longer content themſelves with that equality which is neceſſary among Citizens, fomented it as the chief means to advance their ambitious deſigns. Tho *Marius* was rigid in his nature, and car'd neither for Mony nor ſenſual Pleaſures, yet he favour'd thoſe Vices in others, and is ſaid to be the firſt that made uſe of 'em to his advantage. *Catiline* was one of the leudeſt men in the world, and had no other way of compaſſing his deſigns than by rendring others as bad as himſelf: and *Ceſar* ſet up his Tyranny by ſpreading that corruption farther than the others had bin able to do; and tho he, *Caligula*, and ſome others were ſlain, yet the beſt men found it as impoſſible to reſtore Liberty to the City when it was corrupted, as the worſt had done to ſet up a Tyranny whilſt the integrity of their manners did continue. Men have a ſtrange propenſity to run into all manner of exceſſes, when plenty of means invite, and there

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is no power to deter; of which the ſucceeding Emperors took advantage, and knowing that even their ſubſiſtence depended upon it, they thought themſelves oblig'd by intereſt as well as inclination to make Honors and Preferments the rewards of Vice: and tho it be not always true in the utmoſt extent that all men follow the example of the King; yet it is of great efficacy: Tho ſome are ſo good that they will not be perverted, and others ſo bad that they will not be corrected; yet a great number dos always follow the courſe that is favour'd and rewarded by thoſe that govern. There were Idolaters doubtleſs among the *Jews* in the days of *David* and *Hezekiah*; but they proſper'd better under *Jeroboam* and *Ahab*: *England* was not without Papiſts in the time of Queen *Elizabeth*; but they thriv'd much better during the Reign of her furious Siſter. Falſe Witneſſes and Accuſers had a better trade under *Tiberius*, who call'd them *Cuſtodes Legum*, than under *Trajan* who abhor'd them; and Whores, Players, and Fidlers, with other ſuch Vermin, abounded certainly more when encourag'd by *Nero*, than when deſpis'd by *Antoninus* and *Marcus Aurelius*. But as every one of theſe manifeſted what he was by thoſe he favor'd or puniſh'd, and that a man can only be judg'd by his principles or practices, he that would know whether abſolute Monarchys or mix'd Governments do moſt foment or puniſh Venality and Corruption, ought to examin the principle and practice of both, and compare them one with the other. SECT. 19.

As to the Principle, the above-mention'd Vices may be profitable to ptivate men, but they can never be ſo to the Government, if it be popular or mix'd: No People was ever the better for that which renders them weak or baſe; and a duly created Magiſtracy, governing a Nation with their conſent, can have no intereſt diſtinct from that of the Publick, or deſire to diminiſh the ſtrength of the People, which is their own, and by which they ſubſiſt. On the other ſide, the abſolute Monarch who governs for himſelf, and chiefly ſeeks his own preſervation, looks upon the ſtrength and bravery of his Subjects as the root of his greateſt danger, and frequently deſires to render them weak, baſe, corrupt, and unfaithful to each other, that they may neither dare to attempt the breaking of the Yoke he lays upon them, nor truſt one another in any generous deſign for the recovery of their Liberty. So that the ſame corruption which preſerves ſuch a Prince, if it were introduc'd by a People, would weaken, if not utterly deſtroy them.

Again, all things have their continuance from a principle in Nature ſutable to their Original: all Tyrannys have had their beginnings from corruption. The Hiſtorys of *Greece*, *Sicily*, and *Italy*, ſhew that all thoſe who made themſelves Tyrants in ſeveral places, did it by the help of the worſt, and the ſlaughter of the beſt: Men could not be made ſubſervient to their Luſts whilſt they continu'd in their integrity; ſo as their buſineſs was to deſtroy thoſe who would not be corrupted. They muſt therefore endeavour to maintain or increaſe the corruption by which they attain their greatneſs: If they fail in this point, they muſt fall as *Tarquin*, *Piſiſtratus*, and others have done; but if they ſucceed ſo far that the vicious part do much prevail, the Government is ſecure, tho the Prince may be in danger. And the ſame thing dos in a great meaſure accidentally conduce to the ſafety of his Perſon: For they who for the moſt part are the Authors of great Revolutions, not being ſo much led by a particular hatred to the Man, as by a deſire to do good to the Publick, ſeldom ſet themſelves to conſpire againſt the Tyrant, unleſs he be altogether deteſta-

CHAP. II.

ble and intolerable, if they do not hope to overthrow the Tyranny.

The contrary is ſeen in all popular and well-mix'd Governments: they are ever eſtabliſh'd by wiſe and good men, and can never be upheld otherwiſe than by Vertue: The worſt men always conſpiring againſt them, they muſt fall, if the beſt have not power to preſerve them. Whereſoever therefore a People is ſo govern'd, the Magiſtrats will obviate afar off the introduction of Vices, which tend as much to the ruin of their Perſons and Government, as to the preſervation of the Prince and his. This is evidenc'd by experience. 'Tis not eaſy to name a Monarch that had ſo many good qualitys as *Julius Ceſar*, till they were extinguiſh'd by his Ambition, which was inconſiſtent with them: He knew that his ſtrength lay in the corruption of the People, and that he could not accompliſh his deſigns without increaſing it. He did not ſeek good men, but ſuch as would be for him; and thought none ſufficiently addicted to his Intereſts, but ſuch as ſtuck at the performance of no wickedneſs that he commanded: he was a Soldier according to *Ceſar*'s heart who ſaid,

Pectore ſi fratris gladium juguloq; parentis
Condere me jubeas, gravidæve in viſcera partu
Conjugis, invita peragam tamen omnia dextra. Lucan.

And leſt ſuch as were devoted to him ſhould grow faint in Villany, he induſtriouſly inflam'd their fury:

——Vult omnia Cæſar
A ſe ſæva peti, vult præmia Martis amari. Ib.

Having ſpread this Poiſon amongſt the Soldiers, his next work was by corrupting the Tribuns to turn that Power to the deſtruction of the People, which had bin erected for their preſervation; and pouring the Treaſures he had gain'd by rapine in *Gaul* into the Boſom of *Curio*, made him an inſtrument of miſchief, who had bin a moſt eminent Supporter of the Laws. Tho he was thought to have affected the glory of ſparing *Cato*, and with trouble to have found that he deſpis'd life when it was to be accounted his gift; yet in ſuſpecting *Brutus* and *Caſſius*, he ſhew'd he could not believe that vertuous men who lov'd their Country could be his Friends. Such as carry on the like deſigns with leſs Valor, Wit, and Generoſity of Spirit, will always be more bitterly bent to deſtroy all that are good, knowing that the deformity of their own Vices is render'd moſt manifeſt, when they are compar'd with the good qualitys of thoſe who are moſt unlike them; and that they can never defend themſelves againſt the ſcorn and hatred they incur by their Vices, unleſs ſuch a number can be infected with the ſame, and made to delight in the recompences of iniquity that foment them, as may be able to keep the reſt of the People in ſubjection.

The ſame thing happens even when the Uſurpation is not ſo violent as that of *Agathocles*, *Dionyſius*, or the laſt King of *Denmark*, who in one day by the ſtrength of a mercenary Soldiery overthrew all the Laws of his Country: and a lawfully created Magiſtrate is forc'd to follow the ſame ways as ſoon as he begins to affect a Power which the Laws do not confer upon him. I wiſh I could ſay there were few of theſe; but experience ſhews that ſuch a proportion of Wiſdom, moderation of Spirit, and Juſtice is requir'd in a ſupreme Magiſtrate, to render him content with a limited

limited Power, as is ſeldom found. Man is of an aſpiring nature, and apt to put too high a value upon himſelf; they who are rais'd above their Brethren, tho but a little, deſire to go farther; and if they gain the name of King, they think themſelves wrong'd and degraded, when they are not ſuffer'd to do what they * pleaſe. In theſe things they never want Maſters; and the nearer they come to a Power that is not eaſily reſtrain'd by Law, the more paſſionately they deſire to aboliſh all that oppoſes it: and when their Hearts are fill'd with this fury, they never fail to chuſe ſuch Miniſters as will be ſubſervient to their Will: and this is ſo well known, that thoſe only approach them who reſolve to be ſo. Their intereſts as well as their inclinations incite them to diffuſe their own manners as far as they can, which is no leſs than to bring thoſe who are under their power to all that wickedneſs of which the nature of man is capable; and no greater teſtimony can be given of the efficacy of theſe means towards the utter corruption of Nations, than the accurſed effects we ſee of 'em in our own and the neighboring Countrys. SECT. 19.

It may be ſaid that ſome Princes are ſo full of Vertue and Goodneſs, as not to deſire more power than the Laws allow, and are not oblig'd to chuſe ill men, becauſe they deſire nothing but what the beſt are willing to do. This may be, and ſometimes is: the Nation is happy that has ſuch a King; but he is hard to find, and more than a human Power is requir'd to keep him in ſo good a way. The ſtrength of his own affections will ever be againſt him: Wives, Children, and Servants will always join with thoſe Enemys that ariſe in his own breaſt to pervert him: if he has any weak ſide, any Luſt unſubdu'd, they will gain the victory. He has not ſearch'd into the nature of Man, who thinks that any one can reſiſt when he is thus on all ſides aſſaulted: Nothing but the wonderful and immediate power of God's Spirit can preſerve him; and to alledg it will be nothing to the purpoſe, unleſs it can be prov'd that all Princes are bleſt with ſuch an aſſiſtance, or that God has promis'd it to them and their Succeſſors for ever, by what means ſoever they came to the Crowns they enjoy.

Nothing is farther from my intention than to ſpeak irreverently of Kings; and I preſume no wiſe man will think I do ſo, if I profeſs, that having obſerv'd as well as I can what Hiſtory and daily Experience teach us concerning the Vertues and Religions that are or have bin from the beginning of the World encourag'd and ſupported by Monarchs, the methods they have follow'd ſince they have gone under the name of Chriſtians, their moral as well as theological Graces, together with what the Scriptures tell us of thoſe who in the laſt days will principally ſupport the Throne of Antichriſt; I cannot be confident that they are generally in an extraordinary manner preſerv'd by the hand of God from the Vices and Frailtys to which the reſt of mankind is ſubject. If no man can ſhew that I am in this miſtaken, I may conclude, that as they are more than any other men in the world expos'd to temptations and ſnares, they are more than any in danger of being corrupted, and made Inſtruments of corrupting others, if they are no otherwiſe defended than the reſt of men.

This being the ſtate of the matter on both ſides, we may eaſily collect, that all Governments are ſubject to corruption and decay; but with this difference, that Abſolute Monarchy is by principle led unto, or rooted

* Sanctitas, pietas, fides
Privata bona ſunt: Qua juvat reges eant. *Senec. Thyeſt.*

CHAP. II.

in it; whereas mix'd or popular Governments are only in a poſſibility of falling into it: As the firſt cannot ſubſiſt, unleſs the prevailing part of the people be corrupted; the other muſt certainly periſh, unleſs preſerv'd in a great meaſure free from Vices. And I doubt whether any better reaſon can be given, why there have bin and are more Monarchys than popular Governments in the world, than that Nations are more eaſily drawn into corruption than defended from it; and I think that Monarchy can be ſaid to be natural in no other ſenſe, than that our deprav'd Nature is moſt inclin'd to that which is worſt.

To avoid unneceſſary Diſputes, I give the name of Popular Governments to thoſe of *Rome*, *Athens*, *Sparta*, and the like, tho improperly, unleſs the ſame may alſo be given to many that are uſually called Monarchys, ſince there is nothing of violence in either; the Power is confer'd upon the chief Magiſtrats of both by the free conſent of a willing People, and ſuch a part as they think fit is ſtill retain'd and executed in their own Aſſemblys; and in this ſenſe it is that our Author ſeems to ſpeak againſt them. As to Popular Government in the ſtricteſt ſenſe, (that is pure Democracy, where the People in themſelves, and by themſelves, perform all that belong to Government) I know of no ſuch thing; and if it be in the World, have nothing to ſay for it. In aſſerting the Liberty, generally, as I ſuppoſe, granted by God to all mankind, I neither deny, that ſo many as think fit to enter into a Society, may give ſo much of their Power as they pleaſe to one or more men, for a time or perpetually, to them and their Heirs, according to ſuch Rules as they preſcribe; nor approve the Diſorders that muſt ariſe if they keep it intirely in their own hands. And looking upon the ſeveral Governments, which under different forms and names have bin regularly conſtituted by Nations, as ſo many undeniable Teſtimonys, that they thought it good for themſelves and their Poſterity ſo to do, I infer, that as there is no man who would not rather chuſe to be govern'd by ſuch as are juſt, induſtrious, valiant and wiſe, than by thoſe that are wicked, ſlothful, cowardly and fooliſh; and to live in ſociety with ſuch as are qualify'd like thoſe of the firſt ſort, rather than with thoſe who will be ever ready to commit all manner of Villanys, or want experience, ſtrength or courage, to join in repelling the Injurys offer'd by others: So there are none who do not according to the meaſure of their underſtanding, endeavour to ſet up thoſe who ſeem to be beſt qualify'd, and to prevent the introduction of thoſe Vices which render the Faith of the Magiſtrate ſuſpected, or make him unable to perform his duty, in providing for the execution of Juſtice, and the publick defence of the State againſt Foreign or Domeſtick Enemys. For as no man who is not abſolutely mad, will commit the care of a Flock to a Villain, that has neither skill, diligence, nor courage to defend them, or perhaps is maliciouſly ſet to deſtroy them, rather than to a ſtout, faithful, and wiſe Shepherd; 'tis leſs to be imagin'd that any would commit the ſame error in relation to that Society which comprehends himſelf with his Children, Friends, and all that is dear to him.

The ſame Conſiderations are of equal force in relation to the Body of every Nation: For ſince the Magiſtrate, tho the moſt perfect in his kind, cannot perform his duty, if the people be ſo baſe, vicious, effeminate and cowardly, as not to ſecond his good Intentions; thoſe who expect good from him, cannot deſire ſo to corrupt their Companions that are to help him, as to render it impoſſible for him to accompliſh it. Tho I believe there have bin in all Ages bad men in every Nation, yet I doubt whether there was

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one in *Rome*, except a *Catiline* or a *Ceſar* who deſign'd to make themſelves Tyrants, that would not rather have wiſh'd the whole People as brave and vertuous as in the time of the *Carthaginian* Wars, than vile and baſe as in the days of *Nero* and *Domitian*. But 'tis madneſs to think, that the whole Body would not rather wiſh to be as it was when Vertue flouriſh'd, and nothing upon Earth was able to reſiſt their power, than weak, miſerable, baſe, ſlaviſh, and trampled under foot by any that would invade them; and forc'd as a Chattel to become a prey to thoſe that were ſtrongeſt. Which is ſufficient to ſhew, that a People acting according to the liberty of their own Will, never advance unworthy men, unleſs it be by miſtake, nor willingly ſuffer the introduction of Vices: Whereas the Abſolute Monarch always prefers the worſt of thoſe who are addicted to him, and cannot ſubſiſt unleſs the prevailing part of the People be baſe and vicious. SECT. 20.

If it be ſaid, that thoſe Governments in which the Democratical part governs moſt, do more frequently err in the choice of men, or the means of preſerving that purity of Manners which is requir'd for the well-being of a People, than thoſe wherein Ariſtocracy prevails; I confeſs it, and that in *Rome* and *Athens* the beſt and wiſeſt men did for the moſt part incline to Ariſtocracy. *Xenophon*, *Plato*, *Ariſtotle*, *Thucydides*, *Livy*, *Tacitus*, *Cicero*, and others, were of this ſort: But if our Author there ſeek Patrons for his Abſolute Monarchy, he will find none but *Phalaris*, *Agathocles*, *Dionyſius*, *Catiline*, *Cethegus*, *Lentulus*, with the corrupted Crew of mercenary Raſcals, who did, or endeavor'd to ſet 'em up. Theſe are they *quibus ex honeſto nulla eſt ſpes*; they abhor the Dominion of the Law, becauſe it curbs their Vices, and make themſelves ſubſervient to the Luſts of a man who may nouriſh them. Similitude of Intereſts, Manners, and Deſigns, is a link of Union between them: Both are Enemys to popular and mix'd Government; and thoſe Governments are Enemys to them, and by preſerving Vertue and Integrity, oppoſe both; knowing, that if they do not, they and their Governments muſt certainly periſh.

SECT. XX.

Man's natural love to Liberty is temper'd by Reaſon, which originally is his Nature.

THAT our Author's Book may appear to be a heap of Incongruitys and Contradictions, 'tis not amiſs to add to what has already bin obſerv'd, that having aſſerted Abſolute Monarchy to be *the only natural Government*, he now ſays, *that the nature of all People is to deſire Liberty without reſtraint*. But if Monarchy be that Power which above all reſtrains Liberty, and ſubjects all to the Will of one; this is as much as to ſay, that all People naturally deſire that which is againſt Nature; and by a wonderful exceſs of extravagance and folly to aſſert contrary Propoſitions, that on both ſides are equally abſurd and falſe. For as we have already prov'd that no Government is impos'd upon men by God or Nature, 'tis no leſs evident, that Man being a rational Creature, nothing can be univerſally natural to him, that is not rational. But this Liberty without reſtraint being inconſiſtent with any Government, and the Good

CHAP. II. Good which man naturally deſires for himſelf, Children and Friends, we find no place in the world where the Inhabitants do not enter into ſome kind of Society or Government to reſtrain it: and to ſay that all men deſire Liberty without reſtraint, and yet that all do reſtrain it, is ridiculous. The truth is, man is hereunto led by Reaſon which is his Nature. Every one ſees they cannot well live aſunder, nor many together, without ſome Rule to which all muſt ſubmit. This ſubmiſſion is a reſtraint of Liberty, but could be of no effect as to the Good intended, unleſs it were general; nor general, unleſs it were natural. When all are born to the ſame freedom, ſome will not reſign that which is their own, unleſs others do the like: This general conſent of all to reſign ſuch a part of their Liberty as ſeems to be for the good of all, is the voice of Nature, and the act of Men (according to natural Reaſon) ſeeking their own Good: And if all go not in the ſame way, according to the ſame form, 'tis an evident teſtimony that no one is directed by Nature; but as a few or many may join together, and frame ſmaller or greater Societys, ſo thoſe Societys may inſtitute ſuch an order or form of Government as beſt pleaſes themſelves; and if the ends of Government are obtain'd, they all equally follow the voice of Nature in conſtituting them.

Again, if man were by nature ſo tenacious of his Liberty without reſtraint, he muſt be rationally ſo. The creation of Abſolute Monarchys, which intirely extinguiſhes it, muſt neceſſarily be moſt contrary to it, tho the people were willing; for they thereby abjure their own Nature. The uſurpation of them can be no leſs than the moſt abominable and outrageous violation of the Laws of Nature that can be imagin'd: The Laws of God muſt be in the like meaſure broken; and of all Governments, Democracy, in which every man's Liberty is leaſt reſtrain'd, becauſe every man has an equal part, would certainly prove to be the moſt juſt, rational and natural; whereas our Author repreſents it as a perpetual ſpring of diſorder, confuſion and vice. This conſequence would be unavoidable, if he ſaid true; but it being my fate often to differ from him, I hope to be excus'd if I do ſo in this alſo, and affirm, that nothing but the plain and certain dictates of Reaſon can be generally applicable to all men as the Law of their Nature; and they who, according to the beſt of their underſtanding provide for the good of themſelves and their Poſterity, do all equally obſerve it. He that inquires more exactly into the matter may find, that Reaſon enjoins every man not to arrogate to himſelf more than he allows to others, nor to retain that Liberty which will prove hurtful to him; or to expect that others will ſuffer themſelves to be reſtrain'd, whilſt he, to their prejudice, remains in the exerciſe of that freedom which Nature allows. He who would be exempted from this common Rule, muſt ſhew for what reaſon he ſhould be rais'd above his Brethren; and if he dos it not, he is an enemy to them. This is not Popularity, but Tyranny; and Tyrants are ſaid *exuiſſe hominem*, to throw off the Nature of men, becauſe they do unjuſtly and unreaſonably aſſume to themſelves that which agrees not with the frailty of human Nature, and ſet up an Intereſt in themſelves contrary to that of their Equals, which they ought to defend as their own. Such as favour them are like to them; and we know of no Tyranny that was not ſet up by the worſt, nor of any that have bin deſtroy'd, unleſs by the beſt of men. The ſeveral Tyrannys of *Syracuſe* were introduc'd by *Agathocles*, *Dionyſius*, *Hieronymus*, *Hippocrates*, *Epicides*, and others, by the help of leud, diſſolute, mercenary Villains; and overthrown by *Timoleon*, *Dion*, *Theodorus*,

dorus, and others, whoſe Vertues will be remember'd in all ages. Theſe, and others like to them, never ſought liberty without reſtraint, but ſuch as was reſtrain'd by Laws tending to the publick Good; that all might concur in promoting it, and the unruly deſires of thoſe who affected Power and Honours which they did not deſerve might be repreſt. SECT. 20.

The like was ſeen in *Rome*: When *Brutus*, *Valerius*, and other vertuous Citizens had thrown out the leud *Tarquins*, they truſted to their own innocence and reputation; and thinking them ſafe under the protection of the Law, contented themſelves with ſuch Honors as their Countrymen thought they deſerv'd. This would not ſatisfy the diſſolute crew that us'd to be * companions to the *Tarquins*. I cannot ſay that either of theſe ſought a Liberty without reſtraint; for the vertuous were willing to be reſtrain'd by the Law, and the vicious to ſubmit to the Will of a man, to gain impunity in offending. But if our Author ſays true, the licentious fury of theſe leud young men, who endeavour'd to ſubvert the Conſtitution of their Country to procure the impunity of their own Crimes, would have bin more natural, that is more reaſonable than the ordinary proceedings of the moſt vertuous, who deſir'd that the Law might be the rule of their Actions, which is moſt abſurd.

The like vicious Wretches have in all times endeavour'd to put the Power into the hands of one man, who might protect 'em in their Villanys, and advance 'em to exorbitant Riches or undeſerv'd Honors; whilſt the beſt men truſting in their Innocence, and deſiring no other Riches or Preferments than what by their Equals they were thought to deſerve, were contented with a due Liberty, under the protection of a juſt Law: and I muſt tranſcribe the Hiſtorys of the World, or at leaſt ſo much of them as concerns the Tyrannys that have bin ſet up or caſt down, if I ſhould here inſert all the proofs that might be given of it. But I ſhall come nearer to the point, which is not to compare Democracy with Monarchy, but a regular mix'd Government with ſuch an Abſolute Monarchy, as leaves all to the will of that Man, Woman, or Child, who happens to be born in the reigning Family, how ill ſoever they may be qualify'd. I deſire thoſe who are lovers of Truth to conſider, whether the wiſeſt, beſt, and braveſt of Men, are not naturally led to be pleas'd with a Goverment that protects them from receiving wrong, when they have not the leaſt inclination to do any? Whether they who deſire no unjuſt advantage above their Brethren, will not always deſire that a People or Senat conſtituted as that of *Rome*, from the expulſion of *Tarquin* to the ſetting up of *Ceſar*, ſhould rather judg of their Merit, than *Tarquin*, *Ceſar*, or his Succeſſors? Or whether the leud or corrupted Pretorian, Bands, with *Macro*, *Sejanus*, *Tigellinus*, and the like, commanding them will not ever, like *Brutus* his Sons, abhor the inexorable Power of the Laws, with the neceſſity of living only by their innocence, and favour the Intereſt of Princes like to thoſe that advanc'd them? If this be not ſufficient, they may be pleas'd a little to reflect upon the Affairs of our own Country, and ſeriouſly conſider whether *H--de*, *Cl--f--d*, *F-lm th*, *Arl-ng-n* and *D--nby*, could have pretended to the chief places, if the

* Sodales adoleſcentium Tarquiniorum aſſueti more Regio vivere, eam tum æquato jure omnium licentiam quærentes, libertatem aliorum in ſuam vertiſſe ſervitutem conquerebantur. Regem hominem eſſe, à quo impetres ubi jus, ubi injuria opus ſit. Eſſe gratiæ locum, eſſe beneficio: & iraſci & ignoſcere poſſe. Leges rem ſurdam eſſe & inexorabilem, ſalubriorem inopi quam potenti: nihil laxamenti nec veniæ habere, ſi modum exceſſeris: periculoſum eſſe in tot humanis erroribus ſola innocentia vivere. *T. Liv. l.* 2.

diſpoſal

CHAP. II.

diſpoſal of them had bin in a free and well-regulated Parliament? Whether they did moſt reſemble *Brutus*, *Publicola*, and the reſt of the *Valerii*, the *Fabii*, *Quintii*, *Cornelii*, &c. or *Narciſſus*, *Pallas*, *Icetus*, *Laco*, *Vinnius*, and the like? Whether all men, good and bad, do not favour that ſtate of things, which favours them and ſuch as they are? Whether *Cl-v-l-d*, *P-rtſm-th*, and others of the ſame trade, have attain'd to the Riches and Honors they enjoy by Services done to the Commonwealth? And what places *Chiffinch*, *F--x* and *Jenkins*, could probably have attain'd, if our Affairs had bin regulated as good men deſire? Whether the old Arts of begging, ſtealing and bawding, or the new ones of informing and trepanning, thrive beſt under one man who may be weak or vicious, and is always ſubject to be circumvented by Flatterers, or under the ſevere ſcrutinys of a Senat or People? In a word, whether they who live by ſuch Arts, and know no other, do not always endeavour to advance the Government under which they enjoy, or may hope to obtain the higheſt Honors, and abhor that, in which they are expos'd to all manner of ſcorn and puniſhment? Which being determin'd, it will eaſily appear why the worſt men have ever bin for Abſolute Monarchy, and the beſt againſt it; and which of the two in ſo doing can be ſaid to deſire an unreſtrain'd Liberty of doing that which is evil.

SECT. XXI.

Mix'd and Popular Governments preſerve Peace, and manage Wars, better than Abſolute Monarchys.

BEing no way concern'd in the defence of Democracy; and having prov'd that *Xenophon*, *Thucydides*, and others of the Antients, in ſpeaking againſt the over-great Power of the common People, intended to add Reputation to the Ariſtocratical Party to which they were addicted, and not to ſet up Abſolute Monarchy, which never fell under diſcourſe among them, but as an object of ſcorn and hatred, evil in it ſelf, and only to be endur'd by baſe and barbarous People; I may leave our Knight, like *Don Quixote*, fighting againſt the Phantaſms of his own brain, and ſaying what he pleaſes againſt ſuch Governments as never were, unleſs in ſuch a place as *San Marino* near *Sinigaglia* in *Italy*, where a hundred Clowns govern a barbarous Rock that no man invades, and relates nothing to our queſtion. If his Doctrin be true, the Monarchy he extols is not only to be prefer'd before unruly Democracy, and mix'd Governments, but is the only one that, without a groſs violation of the Laws of God and Nature, can be eſtabliſh'd over any Nation. But having, as I hope, ſufficiently prov'd, that God did neither inſtitute, nor appoint any ſuch to be inſtituted, nor approve thoſe that were; that Nature dos not incline us to it, and that the beſt as well as the wiſeſt men have always abhor'd it; that it has bin agreeable only to the moſt ſtupid and baſe Nations; and if others have ſubmitted to it; they have done ſo only as to the greateſt of Evils brought upon them by Violence, Corruption or Fraud; I may now proceed to ſhew that the Progreſs of it has bin in all reſpects ſutable to its beginning.

To this end 'twill not be amiſs to examin our Author's words. *Thus*, ſays he, *do they paint to the life this Beaſt with many heads: Let me give the*

the Cypher of their Form of Government; as it is begot by Sedition, ſo it is nouriſh'd by Crimes: It can never ſtand without Wars, either with an Enemy abroad, or with Friends at home. And in order to this I will not criticize upon the terms, tho the Cypher of a Form, and War with Friends, may be juſtly call'd Nonſenſe; but coming to his Aſſertions, that popular or mix'd Governments have their birth in Sedition, and are ever afterwards vex'd with Civil or Foreign Wars, I take liberty to ſay, That whereas there is no Form appointed by God or Nature, thoſe Governments only can be call'd Juſt, which are eſtabliſh'd by the conſent of Nations. Theſe Nations may at the firſt ſet up popular or mix'd Governments, and without the guilt of Sedition introduce them afterwards, if that which was firſt eſtabliſh'd prove unprofitable or hurtful to them; and thoſe that have done ſo, have enjoy'd more Juſtice in times of Peace, and managed Wars, when occaſion requir'd, with more vertue and better ſucceſs, than any Abſolute Monarchys have done. And whereas he ſays, that *in popular Governments each man has a care of his particular, and thinks baſely of the common Good; They look upon approaching Miſchiefs as they do upon Thunder, only every man wiſhes it may not touch his own Perſon:* I ſay, that men can no otherwiſe be engag'd to take care of the Publick, than by having ſuch a part in it, as Abſolute Monarchy dos not allow; for under it they can neither obtain the Good for themſelves, Poſterity and Friends, that they deſire, nor prevent the Miſchiefs they fear, which are the principal Arguments that perſuade men to expoſe themſelves to labours or dangers. 'Tis a folly to ſay, that the vigilance and wiſdom of the Monarch ſupplies the defect of care in others; for we know that no men under the Sun were ever more void of both, and all manner of vertue requir'd to ſuch a work, than very many Monarchs have bin: And, which is yet worſe, the ſtrength and happineſs of the People being frequently dangerous to them, they have not ſo much as the will to promote it: nay, ſometimes ſet themſelves to deſtroy it. Antient Monarchys afford us frequent examples of this kind; and if we conſider thoſe of *France* and *Turky*, which ſeem moſt to flouriſh in our Age, the People will appear to be ſo miſerable under both, that they cannot fear any change of Governor or Government; and all, except a few Miniſters, are kept ſo far from the knowledg of, or power in the management of Affairs, that if any of them ſhould fancy a poſſibility of ſomething that might befal them worſe than what they ſuffer, or hope for that which might alleviate their miſery, they could do nothing towards the advancement of the one, or prevention of the other. *Tacitus* obſerves, that in his time no man was able to write what paſt, *Inſcitia Reipublicæ ut alienæ.* They neglected the publick Affairs in which they had no part. In the ſame Age it was ſaid, that the People, who whilſt they fought for their own Intereſts had bin invincible, being enſlav'd, were grown ſordid, idle, baſe, running after Stage-plays and Shows; ſo as the whole ſtrength of the *Roman* Armys conſiſted of Strangers. When their Spirits were depreſt by ſervitude, they had neither courage to defend themſelves, nor will to fight for their wicked Maſters; and leaſt of all to increaſe their Power, which was deſtructive to themſelves. The ſame thing is found in all places. Tho the *Turk* commands many vaſt Provinces, that naturally produce as good Soldiers as any, yet his greateſt ſtrength is in Children that do not know their Fathers; who not being very many in number, may periſh in one Battel, and the Empire by that means be loſt, the miſerable Nations that groan under that Tyranny having neither courage,

SECT. 21.

Tacit. An. l. 1.

CHAP. II.

power, nor will to defend it. This was the fate of the *Mamalukes*. They had for the ſpace of almoſt two hundred years domineer'd in *Egypt*, and a great part of *Aſia*; but the people under them being weak and diſaffected, they could never recover the Defeat they received from *Selim* near *Tripoli*, who purſuing his Victory, in a few months utterly aboliſh'd their Kingdom.

Notwithſtanding the preſent Pride of *France*, the numbers and warlike Inclinations of that People, the bravery of the Nobility, extent of Dominion, convenience of Situation, and the vaſt Revenues of their King, his greateſt Advantages have bin gain'd by the miſtaken Counſels of *England*, the valor of our Soldiers unhappily ſent to ſerve him, and the Strangers of whom the ſtrength of his Armys conſiſts; which is ſo unſteddy a ſupport, that many who are well vers'd in Affairs of this nature, incline to think he ſubſiſts rather by little Arts, and corrupting Miniſters in Foreign Courts, than by the Power of his own Armys; and that ſome reformation in the Counſels of his Neighbours might prove ſufficient to overthrow that Greatneſs which is grown formidable to *Europe*; the ſame miſery to which he has reduc'd his People, rendring them as unable to defend him, upon any change of Fortune, as to defend their own Rights againſt him.

This proceeds not from any particular defect in the *French* Government, but that which is common to all Abſolute Monarchys. And no State can be ſaid to ſtand upon a ſteddy Foundation, except thoſe whoſe ſtrength is in their own Soldiery, and the body of their own People. Such as ſerve for Wages, often betray their Maſters in diſtreſs, and always want the courage and induſtry which is found in thoſe who fight for their own Intereſts, and are to have a part in the Victory. The buſineſs of Mercenarys is ſo to perform their duty as to keep their Employments, and to draw profit from them; but that is not enough to ſupport the Spirits of men in extreme dangers. The Shepherd who is a hireling, flies when the Thief comes; and this adventitious help failing, all that a Prince can reaſonably expect from a diſaffected and oppreſt People is, that they ſhould bear the Yoke patiently in the time of his Proſperity; but upon the change of his Fortune they leave him to ſhift for himſelf, or join with his Enemys to avenge the Injurys they had receiv'd. Thus did *Alphonſo* and *Ferdinand* Kings of *Naples*, and *Lodovico Sforza* Duke of *Milan* fall in the times of *Charles* the Eighth and *Louis* the Twelfth, Kings of *France*. The two firſt had bin falſe, violent, and cruel; nothing within their Kingdom could oppoſe their fury: but when they were invaded by a foreign Power, they loſt all, as *Guicciardin* ſays, without breaking one Lance; and *Sforza* was by his own mercenary Soldiers deliver'd into the hands of his Enemys.

I think it may be hard to find Examples of ſuch as proceeding in the ſame way have had better Succeſs: But if it ſhould ſo fall out, that a People living under an Abſolute Monarchy, ſhould thro cuſtom, or fear of ſomething worſe (if that can be) not only ſuffer patiently, but deſire to uphold the Government; neither the Nobility, nor Commonalty can do any thing towards it. They are ſtrangers to all publick Concernments: All things are govern'd by one, or a few men, and others know nothing either of Action or Counſel. *Filmer* will tell us 'tis no matter; the profound Wiſdom of the Prince provides for all. But what if this Prince be a Child, a Fool, a ſuperannuated Dotard, or a Madman? Or if he dos not fall under any of theſe extremitys, and poſſeſſes ſuch a proportion

proportion of Wit, Induſtry, and Courage as is ordinarily ſeen in men, how ſhall he ſupply the Office that indeed requires profound Wiſdom, and an equal meaſure of Experience and Valor? 'Tis to no purpoſe to ſay a good Council may ſupply his defects; for it dos not appear how he ſhould come by this Council, nor who ſhould oblige him to follow their advice: If he be left to his own will to do what he pleaſes, tho good advice be given to him; yet his judgment being perverted, he will always incline to the worſt: If a neceſſity be impos'd upon him of acting according to the advice of his Council, he is not that abſolute Monarch of whom we ſpeak, nor the Government Monarchical, but Ariſtocratical. Theſe are imperfect Figleave coverings of Nakedneſs. It was in vain to give good Counſel to *Sardanapalus*; and none could defend the *Aſſyrian* Empire, when he lay wallowing amongſt his Whores, without any other thought than of his Luſts. None could preſerve *Rome*, when *Domitian*'s chief buſineſs was to kill Flies, and that of *Honorius* to take care of his Hens. The Monarchy of *France* muſt have periſh'd under the baſe Kings they call *Les Roys faineants*, if the Scepter had not bin wreſted out of their uuworthy hands. The World is full of Examples in this kind: and when it pleaſes God to beſtow a juſt, wiſe, and valiant King as a bleſſing upon a Nation, 'tis only a momentary help, his Vertues end with him; and there being neither any divine Promiſe nor human Reaſon, moving us to believe that they ſhall always be renew'd and continu'd in his Succeſſors, men cannot rely upon it; and to alledg a poſſibility of ſuch a thing is nothing to the purpoſe. SECT. 21.

On the other ſide, in a popular or mix'd Government every man is concern'd: Every one has a part according to his quality or merit; all changes are prejudicial to all: Whatſoever any man conceives to be for the publick good, he may propoſe it in the Magiſtracy, or to the Magiſtrate: The body of the People is the publick defence, and every man is arm'd and diſciplin'd: the advantages of good ſucceſs are communicated to all, and every one bears a part in the loſſes. This makes men generous and induſtrious, and fills their hearts with Love to their Country: * This, and the deſire of that praiſe which is the Reward of Vertue, rais'd the *Romans* above the reſt of Mankind; and whereſoever the ſame ways are taken, they will in a great meaſure have the ſame effects. By this means they had as many Soldiers to fight for their Country as there were Freemen in it. Whilſt they had to deal with the free Nations of *Italy*, *Greece*, *Africa* or *Spain*, they never conquer'd a Country, till the Inhabitants were exhauſted: But when they came to fight againſt Kings, the ſucceſs of a Battel was enough to bring a Kingdom under their power. *Antiochus* upon a ruffle receiv'd from *Acilius* at *Thermopylæ*, left all that he poſſeſt in *Greece*; and being defeated by *Scipio Naſica*, he quitted all the Kingdoms and Territorys of *Aſia* on this ſide *Taurus*. *Paulus Emilius* became Maſter of *Macedon* by one proſperous fight againſt *Perſes*. *Syphax*, *Gentius*, *Tigranes*, *Ptolomy*, and others, were more eaſily ſubdu'd. The mercenary Armys on which they rely'd being broken, the Citys and Countrys not caring for their Maſters, ſubmitted to thoſe who had more vertue, and better fortune. If the *Roman* Power had not bin built upon a more ſure foundation, they could not have ſubſiſted. Notwithſtanding their Valor, they were often beaten; but their loſſes were imme-

* Amor patriæ, laudiſque immenſa cupido. *Virg.*

CHAP. II.

diately repair'd by the excellence of their Diſciplin. When *Hannibal* had gain'd the Battels of *Trebia*, *Ticinum*, *Thraſimene*, and *Cannæ*; defeated the *Romans* in many other Encounters, and ſlain above two hundred thouſand of their Men, with *Paulus Emilius*, *C. Servilius*, *Sempronius Gracchus*, *Quintius*, *Marcellus*, and many other excellent Commanders: When about the ſame time the two brave *Scipio*'s had bin cut off with their Armys in *Spain*, and many great Loſſes had bin ſuſtain'd in *Sicily* and by Sea, one would have thought it impoſſible for the City to have reſiſted: But their Vertue, love to their Country, and good Government was a ſtrength that increas'd under all their Calamitys, and in the end overcame all. The nearer *Hannibal* came to the Walls, the more obſtinate was their reſiſtance. Tho he had kill'd more great Captains than any Kingdom ever had, others daily ſtep'd up in their place, who excel'd them in all manner of Vertue. I know not, if at any time that conquering City could glory in a greater number of men fit for the higheſt Enterpriſes, than at the end of that cruel War, which had conſum'd ſo many of them; but I think that the finiſhing Victorys by them obtain'd, are but ill proofs of our Author's aſſertion, that they *thought baſely of the common Good, and ſought only to ſave themſelves.* We know of none except *Cecilius Metellus*, who after the Battel of *Cannæ* had ſo baſe a thought as to deſign the withdrawing himſelf from the publick ruin; but *Scipio* (afterwards ſirnam'd *Africanus*) threatning death to thoſe who would not ſwear never to abandon their Country, forc'd him to leave it. This may in general be imputed to good Government and Diſciplin, with which all were ſo ſeaſon'd from their infancy, that no affection was ſo rooted in them, as an ardent love to their Country, and a reſolution to die for it, or with it; but the means by which they accompliſh'd their great Ends, ſo as after their defeats to have ſuch men as carry'd on their nobleſt Deſigns with more glory than ever, was their annual Elections of Magiſtrats, many being thereby advanc'd to the ſupreme Commands, and every one by the Honors he enjoy'd, fill'd with a deſire of rendring himſelf worthy of them.

I ſhould not much inſiſt upon theſe things, if they had bin ſeen only in *Rome:* but tho their Diſciplin ſeems to have bin more perfect, better obſerv'd, and to have produc'd a Vertue that ſurpaſt all others; the like has bin found, tho perhaps not in the ſame degree, in all Nations that have enjoy'd their Liberty, and were admitted to ſuch a part of the Government, as might give them a love to it. This was evident in all the Nations of *Italy*. The *Sabins*, *Volſci*, *Æqui*, *Tuſcans*, *Samnites* and others, were never conquer'd, till they had no men left. The *Samnites* alone inhabiting a ſmall and barren Province, ſuffer'd more defeats before they were ſubdu'd, than all the Kingdoms of *Numidia*, *Ægypt*, *Macedon*, and *Aſia*; and, as 'tis expreſt in their Embaſſy to *Hannibal*, never yielded, till they who had brought vaſt numbers of men into the Field, and by them defeated ſome of the *Roman* Armys, were reduc'd to ſuch weakneſs, that they could not reſiſt one Legion. We hear of few *Spartans* who did not willingly expoſe their Lives for the ſervice of their Country; and the Women themſelves were ſo far inflam'd with the ſame affection, that they refus'd to mourn for their Children and Husbands who dy'd in the defence of it. When the brave *Braſidas* was ſlain, ſome eminent men went to comfort his Mother upon the news of his death; and telling her he was the moſt valiant man in the City, ſhe anſwer'd, that he was indeed a valiant man, and dy'd as he ought to do,

Thucyd. de Bell. Pelopon.

but

but that thro the goodneſs of the Gods, many others were left as valiant as he. SECT. 22.

When *Xerxes* invaded *Greece*, there was not a Citizen of *Athens* able to bear Arms, who did not leave his Wife and Children to ſhift for themſelves in the neighbouring Citys, and their Houſes to be burnt when they imbark'd with *Themiſtocles*; and never thought of either till they had defeated the *Barbarians* at *Salamis* by Sea, and at *Platea* by Land. When men are thus ſpirited, ſome will ever prove excellent: and as none did ever ſurpaſs thoſe who are bred under this diſciplin in all moral, military and civil Vertues; thoſe very Countrys where they flouriſh'd moſt, have not produc'd any eminent men ſince they loſt that Liberty which was the Mother and Nurſe of them.

Tho I ſhould fill a Volume with examples of this kind (as I might eaſily do) ſuch as our Author will ſay, that in Popular Governments men look upon Miſchiefs as Thunder, and only wiſh it may not touch themſelves: But leaving them to the ſcorn and hatred they deſerve by their impudence and folly, I conclude this point with the anſwer, that *Trajano Boccalini* puts into the mouth of *Apollo*, to the Princes who complain'd that their Subjects had not that love to their Countrys, as had bin, and was daily ſeen in thoſe who liv'd under Commonwealths; which amounted to no more than to tell them, that their ill Government was the cauſe of that defect, and that the prejudices incur'd by Rapine, Violence, and Fraud, were to be repair'd only by Liberality, Juſtice, and ſuch a care of their Subjects, that they might live happily under them. Ragion. 95.

SECT. XXII.

Commonwealths ſeek Peace or War according to the Variety of their Conſtitutions.

IF I have hitherto ſpoken in general of popular or mix'd Governments, as if they were all founded on the ſame principle, it was only becauſe our Author without diſtinction has generally blam'd them all, and generally imputed to every one thoſe Faults, which perhaps never were inany; but moſt certainly are directly oppoſite to the temper and conſtitution of many among them. Malice and Ignorance reign ſo equally in him, that 'tis not eaſy to determin from which of the two this falſe repreſentation proceeds. But leſt any man ſhould thereby be impos'd upon, 'tis time to obſerve, That the Conſtitutions of Commonwealths have bin ſo various, according to the different temper of Nations and Times, that if ſome of them ſeem to have bin principally conſtituted for War, others have as much delighted in Peace; and many having taken the middle, and (as ſome think) the beſt way, have ſo moderated their love to Peace, as not to ſuffer the Spirits of the People to fall, but kept them in a perpetual readineſs to make War when there was occaſion: and every one of thoſe having follow'd ſeveral ways and ends, deſerve our particular conſideration.

The Citys of *Rome*, *Sparta*, *Thebes*, and all the Aſſociations of the *Etolians*, *Achaians*, *Sabins*, *Latins*, *Samnites*, and many others that antiently flouriſh'd in *Greece* and *Italy*, ſeem to have intended nothing but the juſt preſervation of Liberty at home, and making War abroad. All the Nations

CHAP. II.

tions of *Spain*, *Germany*, and *Gaul* ſought the ſame things. Their principal work was to render their People valiant, obedient to their Commanders, lovers of their Country, and always ready to fight for it: And for this reaſon when the Senators of *Rome* had kill'd *Romulus*, they perſuaded *Julius Proculus* to affirm, that he had ſeen him in a moſt glorious form aſcending to Heaven, and promiſing great things to the City, *Proinde rem militarem colant.* The *Athenians* were not leſs inclin'd to War, but apply'd themſelves to Trade, as ſubſervient to that end, by increaſing the number of the People, and furniſhing them with the means of carrying it on with more vigor and power. The *Phenician* Citys, of which *Carthage* was the moſt eminent, follow'd the ſame method; but knowing that Riches do not defend themſelves, or ſcorning ſlothfully to enjoy what was gain'd by Commerce, they ſo far apply'd themſelves to War, that they grew to a Power, which *Rome* only was able to overthrow. *Venice*, *Florence*, *Genoa*, *Lucca*, and ſome other Citys of *Italy* ſeem chiefly to have aim'd at Trade; and placing the hopes of their ſafety in the protection of more powerful States, have unwillingly enter'd into Wars, eſpecially by Land; and when they did, they made them by mercenary Soldiers.

Again, ſome of thoſe that intended War deſir'd to enlarge their Territorys by conqueſt; others only to preſerve their own, and to live with freedom and ſafety upon them. *Rome* was of the firſt ſort; and knowing that ſuch ends cannot be accompliſh'd without great numbers of men, they freely admitted Strangers into the City, Senat, and Magiſtracy. *Numa* was a *Sabin*: *Tarquinius Priſcus* was the Son of a *Grecian*: One hundred of thoſe *Sabins* who came with *Tatius* were admitted into the Senat: *Appius Claudius* of the ſame People came to *Rome*, was made a Member of the Senat, and created Conſul. They demoliſh'd ſeveral Citys, and brought the Inhabitants to their own; gave the right of Citizens to many others (ſometimes to whole Citys and Provinces) and car'd not how many they receiv'd, ſo they could engraft them upon the ſame intereſt with the old ſtock, and ſeaſon them with the ſame Principles, Diſciplin, and Manners. On the other ſide, the *Spartans* deſiring only to continue free, vertuous, and ſafe in the enjoyment of their own Territory; and thinking themſelves ſtrong enough to defend it, fram'd a moſt ſevere Diſciplin, to which few Strangers would ſubmit. They baniſh'd all thoſe curious Arts, that are uſeful to Trade; prohibited the importation of Gold and Silver; appointed the *Helotes* to cultivate their Lands, and to exerciſe ſuch Trades as are neceſſary to life; admitted few Strangers to live amongſt them; made none of them free of their City, and educated their Youth in ſuch exerciſes only as prepar'd them for War. I will not take upon me to judg whether this proceeded from ſuch a moderation of Spirit, as plac'd Felicity rather in the fulneſs and ſtability of Liberty, Integrity, Vertue, and the enjoyment of their own, than in Riches, Power, and Dominion over others; nor which of theſe two different methods deſerves moſt to be commended: But certain it is that both ſucceeded according to the intention of the Founders.

Rome conquer'd the beſt part of the World, and never wanted men to defend what was gain'd: *Sparta* liv'd in ſuch happineſs and reputation, that till it was invaded by *Epimanondas*, an Enemys Trumpet had not bin heard by thoſe within the Town for the ſpace of eight hundred years, and never ſuffer'd any great diſaſter, till receding from their own Inſtitutions, they were brought by proſperity to affect the principality of *Greece*, and

and to undertake ſuch Wars as could not be carry'd on without Mony, and greater numbers of men than a ſmall City was able to furniſh; by which means they were oblig'd to beg aſſiſtance from the Barbarians, whom they ſcorn'd and hated, as appears by the Storys of *Callicratidas*, *Lyſander*, and *Ageſilaus*, and fell into ſuch ſtraits as were never recover'd. SECT. 22.

The like variety has bin obſerv'd in the Conſtitutions of thoſe Northern Nations that invaded the Roman Empire: for tho all of them intended War, and look'd upon thoſe only to be Members of their Commonwealths who us'd arms to defend them, yet ſome did immediately incorporate themſelves with thoſe of the conquer'd Countrys. Of this number were the *Franks*, who preſently became one Nation with the *Gauls*; others kept themſelves in a diſtinct Body, as the *Saxons* did from the *Britains:* And the *Goths* for more than three hundred years that they reign'd in *Spain*, never contracted Marriages, or otherwiſe mix'd with the *Spaniards*, till their Kingdom was overthrown by the *Moors*.

Theſe things, and others of the like nature, being weigh'd, many have doubted whether it were better to conſtitute a Commonwealth for War or for Trade; and of ſuch as intend War, whether thoſe are moſt to be prais'd who prepare for defence only, or thoſe who deſign by conqueſt to enlarge their Dominions. Or, if they admit of Trade, whether they ſhould propoſe the acquiſition of Riches for their ultimate end, and depend upon foreign or mercenary Forces to defend them; or to be as helps to enable their own People to carry on thoſe Wars in which they may be frequently engag'd. Theſe Queſtions might perhaps be eaſily decided, if Mankind were of a temper to ſuffer thoſe to live in peace, who offer no injury to any; or that men who have Mony to hire Soldiers when they ſtand in need of them, could find ſuch as would valiantly and faithfully defend them, whilſt they apply themſelves to their Trades. But experience teaching us that thoſe only can be ſafe who are ſtrong; and that no People was ever well defended but thoſe who fought for themſelves; the beſt Judges of theſe matters have always given the preference to thoſe Conſtitutions that principally intend War, and make uſe of Trade as aſſiſting to that end: and think it better to aim at conqueſt, rather than ſimply to ſtand upon their own defence; ſince he that loſes all if he be overcome, fights upon very unequal terms; and if he obtain the Victory, gains no other advantage, than for the preſent to repel the danger that threaten'd him.

Theſe Opinions are confirm'd by the examples of the *Romans*, who proſper'd much more than the *Spartans:* And the *Carthaginians*, who made uſe of Trade as a help to War, rais'd their City to be one of the moſt potent that ever was in the World: Whereas the *Venetians* having rely'd on Trade and mercenary Soldiers, are always forc'd too much to depend upon foreign Potentats; very often to buy Peace with ignominious and prejudicial conditions; and ſometimes to fear the infidelity of their own Commanders, no leſs than the violence of their Enemys. But that which ought to be valu'd above all in point of Wiſdom as well as Juſtice, is the Government given by God to the *Hebrews*, which chiefly fitted them for War, and to make Conqueſts. *Moſes* divided them under ſeveral Captains, into thouſands, hundreds, fiftys, and tens: This was a perpetual Ordinance amongſt them: In numbring them, thoſe only were counted, who were able to bear arms: Every man was oblig'd to go out to War, except ſuch as had marry'd a Wife, or upon other

ſpecial

CHAP. II.

ſpecial occaſions were for a time excus'd; and the whole ſeries of the ſacred Hiſtory ſhews that there were always as many Soldiers to fight for their Country as there were men able to fight. And if this be taken for a Picture of a many-headed Beaſt delighting in Blood, begotten by Sedition, and nouriſh'd by Crimes, God himſelf was the drawer of it.

In this variety of Conſtitutions, and Effects proceeding from them, I can ſee nothing more juſtly and generally to be attributed to them all, than that Love to their Country, which our Author impudently affirms to be wanting in all. In other matters their proceedings are not only different, but contrary to each other: yet it cannot be ſaid that any Nations have injoy'd ſo much Peace as ſome Republicks. The *Venetians* too great inclination to Peace is accounted to be a mortal error in their Conſtitution; and they have not bin leſs free from domeſtick Seditions than foreign Wars: the Conſpiracys of the *Falerii* and *Tiepoli* were extinguiſh'd by their puniſhment, and that of *La Cueva* cruſh'd before it was ripe. *Genoa* has not bin altogether ſo happy: the factions of the *Guelphs* and *Ghibelins* that ſpread themſelves over all *Italy*, infected that City; and the malice of the *Spaniards* and *French* rais'd others under the *Fregoſi* and *Adorni*; but they being compos'd, they have for more than a hundred and fifty years reſted in quiet.

There is another ſort of Commonwealth compos'd of many Citys aſſociated together, and living *æquo jure*; every one retaining and exerciſing a Sovereign Power within it ſelf, except in ſome caſes expreſt in the Act of Union, or League made between them. Theſe I confeſs are more hardly preſerv'd in Peace. Diſputes may ariſe among them concerning Limits, Juriſdiction, and the like. They cannot always be equally concern'd in the ſame things. The injurys offer'd to one do not equally affect all. Their Neighbors will ſow Diviſions among them; and not having a Mother-City to decide their Controverſys by her authority, they may be apt to fall into quarrels, eſpecially if they profeſs Chriſtianity; which having bin ſplit into variety of opinions ever ſince it was preach'd, and the Papiſts by their cruelty to ſuch as diſſent from them, ſhewing to all, that there is no other way of defending themſelves againſt them, than by uſing the ſame, almoſt every man is come to think he ought (as far as in him lies) to impoſe his belief on others, and that he can give no better teſtimony of his Zeal, than the exceſs of his violence on that account. Nevertheleſs the Cantons of the *Switzers*, tho accompany'd with all the moſt dangerous circumſtances that can be imagin'd, being thirteen in number, independent on each other, govern'd in a high degree popularly, profeſſing Chriſtianity differing in moſt important points; eight of them much influenc'd by the Jeſuits, and perpetually excited to War againſt their Brethren by the powerful Crowns of *Spain* and *France*, have ever ſince they caſt off the inſupportable Yoke of the Earls of *Hapſburg*, enjoy'd more peace than any other State of *Europe*, and from the moſt inconſiderable people, are grown to ſuch a Power, that the greateſt Monarchs do moſt ſollicitouſly ſeek their Friendſhip; and none have dar'd to invade them, ſince *Charles* Duke of *Burgundy* did it to his ruin: and he who for a long time had bin a terror to the great, dangerous, and ſubtil King of *France*, gave by the loſs of three Armys and his own life, a laſting teſtimony of his temerity in aſſaulting a free and valiant, tho a poor people, fighting in their own quarrel. *Commines* well relates that War; but a vaſt heap of Bones remaining to this day at *Muret* with this inſcription, *Caroli fortiſſimi Burgundiorum Ducis exercitus Muretum obſidens*

ſidens ab Helvetiis cæſus, hoc ſui Monumentum reliquit, beſt ſhews the ſucceſs of it. Since that time their greateſt Wars have bin for the defence of *Milan*; or ſuch as they have undertaken for pay under the Enſigns of *France* or *Spain*, that by the uſe of Arms they may keep up that Courage, Reputation, and Experience which is requir'd for the defence of their own Country. No Government was ever more free from popular Seditions; the revolts of their Subjects have bin few, weak, and eaſily ſuppreſt; the diſſenſion rais'd by the Jeſuits between the Cantons of *Zurich* and *Lucern* was as ſoon compos'd as the rebellion of the County of *Vaux* againſt the Canton of *Bern*; and thoſe few of the like nature that have happen'd among them have had the like ſucceſs: So that *Thuanus* in the Hiſtory of his time, comprehending about fifty years, and relating the horrid domeſtick and foreign Wars, that diſtracted *Germany*, *France*, *Spain*, *Italy*, *Flanders*, *England*, *Scotland*, *Poland*, *Denmark*, *Sweden*, *Hungary*, *Tranſilvania*, *Muſcovy*, *Turky*, *Africk*, and other places, has no more to ſay of them than to ſhew what Arts had bin in vain us'd to diſturb their ſo much envy'd quiet. But if the modeſt temper of the People, together with the Wiſdom, Juſtice, and Strength of their Government, could not be diſcompos'd by the meaſures of *Spain* and *France*, by the induſtry of their Embaſſadors, or the malicious craft of the Jeſuits, we may ſafely conclude that their State is as well ſettled as any thing among men can be, and can hardly comprehend what is like to interrupt it. As much might be ſaid of the Citys of the *Hanſeatick* Society, if they had an intire Sovereignty in themſelves: But the Citys of the United Provinces in the Low Countrys being every one of them Sovereign within themſelves, and many in number, ſtill continuing in their Union in ſpite of all the endeavours that have bin us'd to divide them, give us an example of ſuch ſteddineſs in practice and principle, as is hardly to be parallel'd in the world, and that undeniably prove a temper in their Conſtitutions directly oppoſite to that which our Author imputes to all popular Governments: and if the Death of *Barnevelt* and *De Wit*, or the preferment of ſome moſt unlike to them, be taken for a teſtimony that the beſt men thrive worſt, and the worſt beſt, I hope it may be conſider'd that thoſe Violences proceeded from that which is moſt contrary to Popularity, tho I am not very willing to explain it.

SECT. 22.

If theſe matters are not clear in themſelves, I deſire they may be compar'd with what has happen'd between any Princes that from the beginning of the world have bin join'd in League to each other, whether they were of the ſame or of different Nations. Let an example be brought of ſix, thirteen, or more Princes or Kings who enter'd into a League; and for the ſpace of one or more Ages, did neither break it, nor quarrel upon the explication of it. Let the States of the *Switzers*, *Griſons*, or *Hollanders*, be compar'd with that of *France*, when it was ſometimes divided between two, three, or four Brothers of *Meroveus* or *Pepin*'s Races; with the Heptarchy of *England*; the Kingdoms of *Leon*, *Arragon*, *Navarr*, *Caſtile* and *Portugal*, under which the Chriſtians in *Spain* were divided; or thoſe of *Cordoua*, *Sevil*, *Malaga*, *Granada*, and others under the Power of the *Moors*: and if it be not evident, that the popular States have bin remarkable for Peace among themſelves, conſtancy to their Union, and Fidelity to the Leagues made with their Aſſociats; whereas all the abovemention'd Kingdoms, and ſuch others as are known among men to have bin join'd in the like Leagues, were ever infeſted with domeſtick Rebellions and Quarrels ariſing from the Ambition of Princes,

CHAP. II.

ſo as no Confederacy could be ſo cautiouſly made, but they would find ways to elude it, or ſo ſolemn and ſacred, but they would in far leſs time break thro it: I will confeſs, that Kingdoms have ſometimes bin as free from civil diſturbances; and that Leagues made between ſeveral Princes, have bin as conſtantly and religiouſly obſerv'd, as by Commonwealths. But if no ſuch thing dos appear in the World, and no man who is not impudent or ignorant dare pretend it, I may juſtly conclude, that tho every Commonwealth has its Action ſutable to its Conſtitution, and that many aſſociated together are not ſo free from diſturbances, as thoſe that wholly depend upon the Authority of a Mother City; yet we know of none that have not bin, and are more regular and quiet than any Principalitys; and as to Foreign Wars, they ſeek or avoid them according to their various Conſtitutions.

SECT. XXIII.

That is the beſt Government, which beſt provides for War.

OUR Author having huddled up all popular and mix'd Governments into one, has in ſome meaſure forc'd me to explain the various Conſtitutions and Principles upon which they are grounded: But as the wiſdom of a Father is ſeen, not only in providing Bread for his Family, or increaſing his Patrimonial Eſtate, but in making all poſſible proviſion for the ſecurity of it; ſo that Government is evidently the beſt, which, not relying upon what it dos at firſt enjoy, ſeeks to increaſe the number, ſtrength, and riches of the People; and by the beſt Diſciplin to bring the Power ſo improv'd into ſuch order as may be of moſt uſe to the Publick. This comprehends all things conducing to the adminiſtration of Juſtice, the preſervation of domeſtick Peace, and the increaſe of Commerce, that the People being pleas'd with their preſent condition, may be fill'd with love to their Country, encourag'd to fight boldly for the publick Cauſe, which is their own; and as men do willingly join with that which proſpers, that Strangers may be invited to fix their Habitations in ſuch a City, and to eſpouſe the principles that reign in it. This is neceſſary for ſeveral reaſons; but I ſhall principally inſiſt upon one, which is, that all things in their beginning are weak: The Whelp of a Lion newly born has neither ſtrength nor fierceneſs. He that builds a City, and dos not intend it ſhould increaſe, commits as great an abſurdity, as if he ſhould deſire his Child might ever continue under the ſame weakneſs in which he is born. If it dos not grow, it muſt pine and periſh; for in this World nothing is permanent: that which dos not grow better will grow worſe. This increaſe alſo is uſeleſs, or perhaps hurtful, if it be not in Strength, as well as in Riches or Number; for every one is apt to ſeize upon ill-guarded Treaſures: and the terror that the City of *London* was poſſeſt with, when a few Dutch Ships came to *Chatham*, ſhews that no numbers of men, tho naturally valiant, are able to defend themſelves, unleſs they be well arm'd, diſciplin'd and conducted. Their Multitude brings confuſion: their Wealth, when 'tis like to be made a prey, increaſes the fears of the owners; and they, who if they were brought into good order, might conquer a great part of the World, being deſtitute of it, durſt not think of defending themſelves.

If it be ſaid that the wiſe Father mention'd by me endeavours to ſecure his Patrimony by Law, not by Force; I anſwer, that all defence terminates in force; and if a private man dos not prepare to defend his Eſtate with his own Force, 'tis becauſe he lives under the protection of the Law, and expects the force of the Magiſtrate ſhould be a ſecurity to him: but Kingdoms and Commonwealths acknowledging no Superior, except God alone, can reaſonably hope to be protected by him only; and by him, if with induſtry and courage they make uſe of the means he has given them for their own defence. God helps thoſe who help themſelves; and men are by ſeveral reaſons (ſuppoſe to prevent the increaſe of a ſuſpected Power) induc'd to ſuccour an induſtrious and brave People: But ſuch as neglect the means of their own preſervation, are ever left to periſh with ſhame. Men cannot rely upon any League: The State that is defended by one Potentat againſt another, becomes a Slave to their Protector: Mercenary Soldiers always want Fidelity or Courage, and moſt commonly both. If they are not corrupted or beaten by the Invader, they make a prey of their Maſters. Theſe are the followers of Camps who have neither Faith nor Piety *, but prefer Gain before Right. They who expoſe their Blood to ſale, look where they can make the beſt bargain, and never fail of pretences for following their intereſts. SECT. 23.

Moreover, private Familys may by ſeveral arts increaſe their Wealth, as they increaſe in number; but when a People multiplies (as they will always do in a good Climat under a good Government) ſuch an enlargement of Territory as is neceſſary for their ſubſiſtence can be acquir'd only by War. This was known to the Northern Nations that invaded the *Roman* Empire; but for want of ſuch Conſtitutions as might beſt improve their Strength and Valor, the numbers they ſent out when they were overburden'd, provided well for themſelves, but were of no uſe to the Countrys they left; and whilſt thoſe *Goths*, *Vandals*, *Franks*, and *Normans* enjoy'd the moſt opulent and delicious Provinces of the World, their Fathers languiſh'd obſcurely in their frozen Climats. For the like reaſons, or thro the ſame defect, the *Switzers* are oblig'd to ſerve other Princes, and often to imploy that valor in advancing the power of their Neighbors, which might be us'd to increaſe their own. *Genoua*, *Lucca*, *Geneva*, and other ſmall Commonwealths, having no Wars, are not able to nouriſh the men they breed; but ſending many of their Children to ſeek their Fortunes abroad, ſcarce a third part of thoſe that are born among them, die in thoſe Citys; and if they did not take this courſe, they would have no better than the Nations inhabiting near the River *Niger*, who ſell their Children as the increaſe of their Flocks.

This dos not leſs concern Monarchys than Commonwealths; nor the abſolute leſs than the mix'd: All of them have bin proſperous or miſerable, glorious or contemptible, as they were better or worſe arm'd, diſciplin'd, or conducted. The *Aſſyrian* Valor was irreſiſtible under *Nabuchodonozor*; but was brought to nothing under his baſe and luxurious Grandſon *Belſhazzar*: The *Perſians* who under *Cyrus* conquer'd *Aſia*, were like Swine expos'd to ſlaughter when their Diſciplin fail'd, and they were commanded by his proud, cruel, and cowardly Succeſſors. The *Macedonian* Army overthrown by *Paulus Emilius* was not leſs in number than that with which *Alexander* gain'd the Empire of the Eaſt; and perhaps had not bin inferior in Valor, if it had bin as well commanded. Many poor and almoſt unknown Nations have bin carry'd to ſuch a height of

* ——Ibi fas ubi maxima merces. *Lucan.*

CHAP. II.

Glory by the Bravery of their Princes, that I might incline to think their Government as fit as any other for diſciplining a People to War, if their Vertues continu'd in their Familys, or could be tranſmitted to their Succeſſors. The impoſſibility of this is a breach never to be repair'd; and no account is to be made of the good that is always uncertain, and ſeldom enjoy'd. This diſeaſe is not only in abſolute Monarchys, but in thoſe alſo where any regard is had to Succeſſion of Blood, tho under the ſtricteſt limitations. The Fruit of all the Victorys gain'd by *Edward* the Firſt and Third, or *Henry* the Fifth of *England*, periſh'd by the baſeneſs of their Succeſſors: the glory of our Arms was turn'd into ſhame; and we, by the loſs of Treaſure, Blood, and Territory, ſuffer'd the puniſhment of their Vices. The effects of theſe changes are not always equally violent; but they are frequent, and muſt fall out as often as occaſion is preſented. It was not poſſible for *Lewis* the Thirteenth of *France* to purſue the great deſigns of *Henry* the Fourth: *Chriſtina* of *Sweden* could not ſupply the place of her brave Father; nor the preſent King in his Infancy accompliſh what the great *Charles Guſtavus* had nobly undertaken: and no remedy can be found for this mortal infirmity, unleſs the power be put into the hands of thoſe who are able to execute it, and not left to the blindneſs of fortune. When the Regal Power is committed to an annual or otherwiſe choſen Magiſtracy, the Vertues of excellent men are of uſe, but all dos not depend upon their perſons: One man finiſhes what another had begun; and when many are by practice render'd able to perform the ſame things, the loſs of one is eaſily ſupply'd by the election of another. When good Principles are planted, they do not die with the perſon that introduc'd 'em; and good Conſtitutions remain, tho the Authors of 'em periſh. *Rome* did not fall back into ſlavery when *Brutus* was kill'd, who had led them to recover their Liberty: Others like to him purſu'd the ſame ends; and notwithſtanding the loſs of ſo many great Commanders conſum'd in their almoſt continual Wars, they never wanted ſuch as were fit to execute whatever they could deſign. A well-govern'd State is as fruitful to all good purpoſes, as the ſeven-headed Serpent is ſaid to have bin in evil; when one head is cut off, many riſe up in the place of it. Good Order being once eſtabliſh'd, makes good men; and as long as it laſts, ſuch as are fit for the greateſt imployments will never be wanting. By this means the *Romans* could not be ſurpris'd: No King or Captain ever invaded them, who did not find many excellent Commanders to oppoſe him; whereas they themſelves found it eaſy to overthrow Kingdoms, tho they had bin eſtabliſh'd by the braveſt Princes, thro the baſeneſs of their Succeſſors.

But if our Author ſays true, 'tis of no advantage to a popular State to have excellent men; and therefore he impoſes *a neceſſity upon every People to chuſe the worſt men for being the worſt, and moſt like to themſelves; leſt that if vertuous and good men ſhould come into power, they ſhould be excluded for being vicious and wicked*, &c. *Wiſe men would ſeize upon the State, and take it from the People.* For the underſtanding of theſe words, 'tis good to conſider whether they are to be taken ſimply, as uſually apply'd to the Devil and ſome of his inſtruments, or relatively, as to the thing in queſtion: If ſimply, it muſt be concluded that *Valerius*, *Brutus*, *Cincinnatus*, *Capitolinus*, *Mamercus*, *Paulus Emilius*, *Naſica*, and others like to 'em, were not only the worſt men of the City; but that they were ſo often advanc'd to the ſupreme Magiſtracy becauſe they were ſo: if in the other ſenſe relating to Magiſtracy, and the command of

Armys, the worſt are the moſt ignorant, unfaithful, ſlothful, or cowardly; and our Author, to make good his propoſition, muſt prove, that when the People of *Rome*, *Carthage*, *Athens*, and other States had the power of chuſing whom they pleas'd, they choſe *Camillus*, *Corvinus*, *Torquatus*, *Fabius*, *Rullus*, *Scipio*, *Amilcar*, *Hannibal*, *Aſdrubal*, *Pelopidas*, *Epaminondas*, *Pericles*, *Ariſtides*, *Themiſtocles*, *Phocion*, *Alcibiades*, and others like to them, for their Ignorance, Infidelity, Sloth, and Cowardice; and on account of thoſe Vices, moſt like to thoſe who choſe them. But if theſe were the worſt, I deſire to know what wit or eloquence can deſcribe or comprehend the excellency of the beſt; or of the Diſciplin that brings whole Nations to ſuch perfection, that worſe than theſe could not be found among them? And if they were not ſo, but ſuch as all ſucceeding Ages have juſtly admir'd for their Wiſdom, Vertue, Induſtry, and Valor, the impudence of ſo wicked and falſe an Aſſertion ought to be rejected with ſcorn and hatred. SECT. 23.

But if all Governments, whether Monarchial or Popular, abſolute or limited, deſerve praiſe or blame as they are well or ill conſtituted for making War; and that the attainment of this end dos intirely depend upon the qualifications of the Commanders, and the Strength, Courage, Number, Affection, and temper of the People out of which the Armys are drawn; thoſe Governments muſt neceſſarily be the beſt which take the beſt care that thoſe Armys may be well commanded; and ſo provide for the good of the People, that they may daily increaſe in Number, Courage, and Strength, and be ſo ſatisfy'd with the preſent ſtate of things, as to fear a change, and fight for the preſervation or advancement of the publick Intereſt as of their own. We have already found that in Hereditary Monarchys no care at all is taken of the Commander: He is not choſen, but comes by chance; and dos not only frequently prove defective, but for the moſt part utterly uncapable of performing any part of his duty; whereas in Popular Governments excellent men are generally choſen; and there are ſo many of them, that if one or more periſh, others are ready to ſupply their places. And this Diſcourſe having (if I miſtake not) in the whole ſeries ſhewn, that the advantages of popular Governments, in relation to the increaſe of Courage, Number, and Strength in a People, out of which Armys are to be form'd, and bringing them to ſuch a temper as prepares 'em bravely to perform their duty, are as much above thoſe of Monarchys, as the prudence of Choice ſurpaſſes the accidents of Birth; it cannot be deny'd that in both reſpects the part which relates to War is much better perform'd in Popular Governments than in Monarchys.

That which we are by reaſon led to believe, is confirm'd to us by experience. We every where ſee the difference between the Courage of men fighting for themſelves and their poſterity, and thoſe that ſerve a Maſter who by good ſucceſs is often render'd inſupportable. This is of ſuch efficacy, that no King could ever boaſt to have overthrown any conſiderable Commonwealth, unleſs it were divided within it ſelf, or weaken'd by Wars made with ſuch as were alſo free; which was the caſe of the *Grecian* Commonwealths when the *Macedonians* fell in upon them. Whereas the greateſt Kingdoms have bin eaſily deſtroy'd by Commonwealths; and theſe alſo have loſt all Strength, Valor and Spirit, after the change of their Government. The Power and Vertue of the *Italians* grew up, decay'd and periſh'd with their Liberty. When they were divided into many Commonwealths, every one of them was able to ſend out great

Armys,

CHAP. II. Armys, and to ſuffer many Defeats before they were ſubdu'd; ſo that their Citys were deliver'd up by the old Men, Women, and Children, when all thoſe who were able to bear arms had bin ſlain: And when they were all brought under the *Romans*, either as Aſſociats or Subjects, they made the greateſt Strength that ever was in the World.

Alexander of *Epirus* was in Valor thought equal, and in Power little inferior to *Alexander* of *Macedon:* but having the fortune to attack thoſe who had bin brought up in Liberty, taught to hazard or ſuffer all things for it, and to think that God has given to men Hands and Swords only to defend it, he periſh'd in his attempt; whilſt the other encountring ſlaviſh Nations, under the conduct of proud, cruel and for the moſt part unwarlike Tyrants, became Maſter of *Aſia*.

Pyrrhus ſeems to have bin equal to either of them; but the Victorys he obtain'd by an admirable Valor and Conduct, coſt him ſo dear, that he deſir'd Peace with thoſe Enemys who might be defeated, not ſubdu'd.

Hannibal wanting the prudence of *Pyrrhus*, loſt the fruits of all his Victorys; and being torn out of *Italy*, where he had neſted himſelf, fell under the Sword of thoſe whoſe Fathers he had defeated or ſlain; and dy'd a baniſh'd man from his ruin'd Country.

The *Gauls* did once bring *Rome*, when it was ſmall, to the brink of Deſtruction; but they left their Carcaſes to pay for the miſchiefs they had done; and in ſucceeding times their Invaſions were mention'd as Tumults rather than Wars.

The *Germans* did perhaps ſurpaſs them in numbers and ſtrength, and were equal to them in fortune as long as *Rome* was free. They often enter'd *Italy*, but they continu'd not long there, unleſs under the weight of their Chains. Whereas the ſame Nations, and others like to them, aſſaulting that Country, or other Provinces under the Emperors, found no other difficulty than what aroſe upon conteſts among themſelves who ſhould be Maſter of them. No manly Vertue or Diſciplin remain'd among the *Italians:* Thoſe who govern'd them, rely'd upon tricks and ſhifts; they who could not defend themſelves, hir'd ſome of thoſe Nations to undertake their Quarrels againſt others. Theſe trinklings could not laſt. The *Goths* ſcorning to depend upon thoſe who in Valor and Strength were much inferior to themſelves, ſeiz'd upon the City that had commanded the World, whilſt *Honorius* was ſo buſy in providing for his Hens, that he could not think of defending it. *Arcadius* had the luck not to loſe his principal City; but paſſing his time among Fidlers, Players, Eunuchs, Cooks, Dancers, and Buffoons, the Provinces were ſecurely plunder'd and ranſack'd by Nations, that are known only from their Victorys againſt him.

'Tis in vain to ſay that this proceeded from the fatal corruption of that Age; for that corruption proceeded from the Government, and the enſuing deſolation was the effect of it. And as the like diſorder in Government has bin ever ſince in *Greece* and the greateſt part of *Italy*, thoſe Countrys which for Extent, Riches, convenience of Situation, and numbers of men, are equal to the beſt in the world, and for the Wit, Courage, and Induſtry of the Natives, perhaps juſtly preferable to any, have ſince that time bin always expos'd as a prey to the firſt Invader. *Charles* the Eighth of *France* is by *Guicciardin*, and other Writers, repreſented as a Prince equally weak in Body, Mind, Mony, and Forces; but as an ill Hare is ſaid to make a good Dog, he conquer'd the beſt part of *Italy* without breaking

a Lance. *Ferdinand* and *Alphonſo* of *Arragon*, Kings of *Naples*, had go- SECT. 23.
vern'd by Trepanners, falſe Witneſſes, corrupt Judges, mercenary Soldiers, and other Miniſters of Iniquity: but theſe could afford no help againſt an Invader; and neither the oppreſt Nobility, nor People, concerning themſelves in the quarrel, they who had bin proud, fierce, and cruel againſt their poor Subjects, never durſt look an Enemy in the face; and the Father dying with anguiſh and fear, the Son ſhamefully fled from his ill-govern'd Kingdom.

The ſame things are no leſs evident in *Spain*. No People ever defended themſelves with more Obſtinacy and Valor than the *Spaniards* did againſt the *Carthaginians* and *Romans*, who ſurpaſt them in Wealth and Skill. *Livy* calls them *Gentem ad bella gerenda & reparanda natam*, and who generally kill'd themſelves when they were maſter'd and diſarm'd, *Nullam ſine armis vitam eſſe rati*. But tho the mixture of *Roman* Blood could not impair their Race, and the conjunction of the *Goths* had improv'd their Force; yet no more was requir'd for the overthrow of them all, than the weakneſs and baſeneſs of the two leud Tyrants, *Witza* and *Rodrigo*, who diſdain'd all Laws, and reſolv'd to govern according to their Luſt. They who for more than two hundred years had reſiſted the *Romans*, were intirely ſubdu'd by the vile, half-naked *Moors*, in one ſlight Skirmiſh; and do not to this day know what became of the King who brought the Deſtruction upon them. That Kingdom after many Revolutions, is with many others come to the Houſe of *Auſtria*, and enjoys all the Wealth of the *Indys*; whereupon they are thought to have affected an univerſal Monarchy. *Sed ut ſunt levia Aulicorum ingenia*, this was grounded upon nothing except their own Vanity: They had Mony and Craft; but wanting that ſolid Vertue and Strength which makes and preſerves Conqueſts, their Kings have nothing but *Milan* that did not come to them by Marriage: And tho they have not receiv'd any extraordinary diſaſters in War, yet they languiſh and conſume thro the defects of their own Government, and are forc'd to beg aſſiſtance from their mortal and formerly deſpis'd Enemys. Theſe are the beſt hopes of defence that they have from abroad; and the only Enemy an Invader ought to fear in their deſolate Territorys, is that Want and Famin which teſtifys the good Order, Strength and Stability of our Author's divine Monarchy; the profound Wiſdom of their Kings in ſubtilly finding out ſo ſure a way of defending the Country; their paternal care in providing for the good of their Subjects; and that whatſoever is defective in the Prince, is aſſuredly ſupply'd by the Sedulity of a good Council.

We have already ſaid enough to obviate the objections that may be drawn from the proſperity of the *French* Monarchy. The beauty of it is falſe and painted. There is a rich and haughty King, who is bleſt with ſuch Neighbours as are not likely to diſturb him, and has nothing to fear from his miſerable Subjects; but the whole body of that State is full of boils, and wounds, and putrid ſores: There is no real ſtrength in it. The People are ſo unwilling to ſerve him, that he is ſaid to have put to death above fourſcore thouſand of his own Soldiers within the ſpace of fifteen years, for flying from their Colours; and if he were vigorouſly attack'd, little help could be expected from a diſcontented Nobility, or a ſtarving and deſpairing People. If to diminiſh the force of theſe arguments and examples, it be ſaid, that in two or three thouſand years all things are chang'd; the antient Vertue of Mankind is extinguiſh'd; and the love that every one had to his Country is turn'd into a care of his private Intereſts:

CHAP. II.

tereſts: I anſwer, that Time changes nothing, and the Changes produc'd in this time proceed only from the change of Governments. The Nations which have bin govern'd arbitrarily, have always ſuffer'd the ſame Plagues, and bin infected with the ſame Vices; which is as natural, as for Animals ever to generate according to their kinds, and Fruits to be of the ſame nature with the Roots and Seeds from which they come. The ſame Order that made men valiant and induſtrious in the ſervice of their Country during the firſt Ages, would have the ſame effect, if it were now in being. Men would have the ſame love to the Publick as the *Spartans* and *Romans* had, if there was the ſame reaſon for it. We need no other proof of this than what we have ſeen in our own Country, where in a few years, good Diſciplin and a juſt Encouragement given to thoſe who did well, produc'd more examples of pure, compleat, incorruptible, and invincible Vertue than *Rome* or *Greece* could ever boaſt; or if more be wanting, they may eaſily be found among the *Switzers*, *Hollanders*, and others: but 'tis not neceſſary to light a Candle to the Sun.

SECT. XXIV.

Popular Governments are leſs ſubject to Civil Diſorders than Monarchys; manage them more ably, and more eaſily recover out of them.

'TIS in vain to ſeek a Government in all points free from a poſſibility of Civil Wars, Tumults, and Seditions: that is a Bleſſing deny'd to this life, and reſerv'd to compleat the Felicity of the next. But if theſe are to be accounted the greateſt evils that can fall upon a People, the rectitude or defects of Governments will beſt appear if we examin which *Species* is more or leſs expos'd to, or exempted from them.

This may be done two ways.

1. By ſearching into the cauſes from whence they may, or uſually do ariſe.

2. Which kind has actually bin moſt frequently and dangerouſly diſturb'd by them.

To the firſt: Seditions, Tumults, and Wars do ariſe from miſtake, or from malice; from juſt occaſions, or unjuſt. From miſtake, when a People think an evil to be done or intended, which is not done nor intended; or take that to be evil which is done, tho in truth it be not ſo. Well regulated Citys may fall into theſe errors. The *Romans* being jealous of their newly recover'd Liberty, thought that *Valerius Publicola* deſign'd to make himſelf King, when he built a Houſe in a place that ſeem'd too ſtrong and eminent for a private man. The *Spartans* were not leſs ſuſpicious of *Lycurgus*; and a leud young Fellow in a Sedition put out one of his eyes: but no People ever continu'd in a more conſtant affection to their beſt deſerving Citizens, than both the *Romans* and *Spartans* afterwards manifeſted to thoſe vertuous and wrongfully ſuſpected men.

Sometimes the fact is true, but otherwiſe underſtood than was intended. When the *Tarquins* were expel'd from *Rome*, the Patricians retain'd to themſelves the principal Magiſtracys; but never thought of bringing back Kings, or of ſetting up a corrupt Oligarchy among themſelves, as the Plebeians imagin'd: And this miſtake being diſcover'd, the fury they

had conceiv'd, vaniſh'd; and they who ſeem'd to intend nothing leſs than the extirpation of all the Patrician Familys, grew quiet. *Menenius Agrippa* appeas'd one of the moſt violent Seditions that ever happen'd amongſt them (till civil Intereſts were purſu'd by arm'd Troops) with a Fable of the ſeveral parts of the Body that murmur'd againſt the Belly: and the moſt dangerous of all was compos'd by creating Tribuns to protect them. Some of the Patrician young men had favour'd the *Decemviri*, and others being unwilling to appear againſt them, the People believ'd they had all conſpir'd with thoſe new Tyrants: but *Valerius* and *Horatius* putting themſelves at the head of thoſe who ſought their deſtruction, they perceiv'd their Error, and look'd upon the *Patricians* as the beſt defenders of their Libertys: *Et inde*, ſays *Livy*, *auram Libertatis captare, unde ſervitutem timuiſſent.* Democratical Governments are moſt liable to theſe miſtakes: In Ariſtocracys they are ſeldom ſeen, and we hear of none in *Sparta* after the eſtabliſhment of the Laws by *Lycurgus*. But Abſolute Monarchys ſeem to be totally exempted from them. The miſchiefs deſign'd are often diſſembled or deny'd, till they are paſt all poſſibility of being cur'd by any other way than force: and ſuch as are by neceſſity driven to uſe that remedy, know they muſt perfect their work or periſh. He that draws his Sword againſt the Prince, ſay the *French*, ought to throw away the Scabbard; for tho the deſign be never ſo juſt, yet the Authors are ſure to be ruin'd if it miſcarry. Peace is ſeldom made, and never kept, unleſs the Subject retain ſuch a Power in his hands, as may oblige the Prince to ſtand to what is agreed; and in time ſome trick is found to deprive them of that benefit. SECT. 24.

Seditions proceeding from malice, are ſeldom or never ſeen in popular Governments; for they are hurtful to the People, and none have ever willingly and knowingly hurt themſelves. There may be, and often is malice in thoſe who excite them; but the People are ever deceiv'd, and whatſoever is thereupon done, ought to be imputed to error, as I ſaid before. If this be diſcover'd in time, it uſually turns to the deſtruction of the Contriver; as in the caſes of *Manlius Capitolinus*, *Spurius Melius*, and *Sp. Caſſius:* if not, for the moſt part it produces a Tyranny, as in thoſe of *Agathocles*, *Dionyſius*, *Piſiſtrates*, and *Ceſar*. But in Abſolute Monarchys, almoſt all the Troubles that ariſe, proceed from malice; they cannot be reform'd, the extinction of them is exceeding difficult, if they have continu'd long enough to corrupt the People; and thoſe who appear againſt 'em, ſeek only to ſet up themſelves, or their Friends. Thus we ſee that in the Civil Wars of the Eaſt, the queſtion was, Whether *Artaxerxes* or *Cyrus*, *Phraartes* or *Bardanes*, ſhould reign over the *Perſians* and *Parthians:* The People ſuffer'd equally from both whilſt the Conteſts laſted; and the deciſion left 'em under the power of a proud and cruel Maſter. The like is ſeen in all places. After the death of *Brutus* and *Caſſius*, no War was ever undertaken in the *Roman* Empire upon a better account than one man's private concernments: The Provinces ſuffer'd under all; and he, whom they had aſſiſted to overthrow one wicked Tyrant, very often prov'd worſe than his Predeceſſor. And the only ground of all the Diſſenſions with which *France* was vex'd under the Princes of *Meroveus* and *Pepin*'s Races, were, which of them ſhould reign, the People remaining miſerable under them all.

The caſe is not much different in mix'd Monarchys: Some Wars may be undertaken upon a juſt and publick account, but the pretences are commonly falſe: a laſting Reformation is hardly introduc'd, an intire Change

often diſlik'd. And tho ſuch Kingdoms are frequently and terribly diſtracted, as appears by the beforemention'd Examples of *England*, *Spain*, &c. the Quarrels are for the moſt part begun upon perſonal Titles, as between *Henry* the Firſt and *Robert*; *Stephen* and *Maud*; or the Houſes of *Lancaſter* and *York*: and the People who get nothing by the Victory which way ſoever it fall, and might therefore prudently leave the Competitors to decide their own Quarrels, like *Theoreſtes* and *Polinices*, with their own Swords, become cruelly engag'd in them.

It may ſeem ſtrange to ſome that I mention Seditions, Tumults, and Wars, upon juſt occaſions; but I can find no reaſon to retract the term. God intending that men ſhould live juſtly with one another, dos certainly intend that he or they who do no wrong, ſhould ſuffer none; and the Law that forbids Injurys, were of no uſe, if no Penalty might be inflicted on thoſe who will not obey it. If Injuſtice therefore be evil, and Injurys forbidden, they are alſo to be puniſh'd; and the Law inſtituted for their prevention, muſt neceſſarily intend the avenging of ſuch as cannot be prevented. The work of the Magiſtracy is to execute this Law; the Sword of Juſtice is put into their hands to reſtrain the fury of thoſe within the Society who will not be a Law to themſelves; and the Sword of War to protect the people againſt the violence of Foreigners. This is without exception, and would be in vain if it were not. But the Magiſtrate who is to protect the People from Injury, may, and is often known not to have done it: he ſometimes renders his Office uſeleſs by neglecting to do Juſtice; ſometimes miſchievous by overthrowing it. This ſtrikes at the root of God's general Ordinance, That there ſhould be Laws; and the particular Ordinances of all Societys, that appoint ſuch as ſeem beſt to them. The Magiſtrate therefore is comprehended under both, and ſubject to both, as well as private men.

The ways of preventing or puniſhing Injurys, are Judicial or Extrajudicial. Judicial proceedings are of force againſt thoſe who ſubmit or may be brought to trial, but are of no effect againſt thoſe who reſiſt, and are of ſuch power that they cannot be conſtrain'd. It were abſurd to cite a man to appear before a Tribunal who can aw the Judges, or has Armys to defend him; and impious to think that he who has added Treachery to his other Crimes, and uſurp'd a Power above the Law, ſhould be protected by the enormity of his wickedneſs. Legal proceedings therefore are to be us'd when the Delinquent ſubmits to the Law; and all are juſt, when he will not be kept in order by the legal.

The word Sedition is generally apply'd to all numerous Aſſemblys, without or againſt the Authority of the Magiſtrate, or of thoſe who aſſume that Power. *Athaliah* and *Jezabel* were more ready to cry out Treaſon than *David*; and examples of that ſort are ſo frequent, that I need not alledg them.

Tumult is from the diſorderly manner of thoſe Aſſemblys, where things can ſeldom be done regularly; and War is that *Decertatio per vim*, or trial by force, to which men come when other ways are ineffectual.

If the Laws of God and Men are therefore of no effect, when the Magiſtracy is left at liberty to break them; and if the Luſts of thoſe who are too ſtrong for the Tribunals of Juſtice, cannot be otherwiſe reſtrain'd than by Sedition, Tumults and War, thoſe Seditions, Tumults, and Wars, are juſtify'd by the Laws of God and Man.

I will not take upon me to enumerate all the caſes in which this may be done, but content my ſelf with three, which have moſt frequently given occaſion for proceedings of this kind. SECT. 24.

The firſt is, When one or more men take upon them the Power and Name of a Magiſtracy, to which they are not juſtly call'd.

The ſecond, When one or more being juſtly call'd, continue in their Magiſtracy longer than the Laws by which they are call'd do preſcribe.

And the third, When he or they who are rightly call'd, do aſſume a Power, tho within the time preſcrib'd, that the Law dos not give; or turn that which the Law dos give, to an end different and contrary to that which is intended by it.

For the firſt; *Filmer* forbids us to examin Titles: he tells us, we muſt ſubmit to the Power, whether acquir'd by Uſurpation or otherwiſe, not obſerving the miſchievous Abſurdity of rewarding the moſt deteſtable Villanys with the higheſt Honors, and rendering the veneration due to the ſupreme Magiſtrate as Father of the People, to one who has no other advantage above his Brethren, than what he has gain'd by injuriouſly diſpoſſeſſing or murdering him that was ſo. *Hobbs* fearing the advantages that may be taken from ſuch deſperate nonſenſe, or not thinking it neceſſary to his end to carry the matter ſo far, has no regard at all to him who comes in without Title or Conſent; and denying him to be either King or Tyrant, gives him no other name than *Hoſtis & Latro*, and allows all things to be lawful againſt him, that may be done to a publick Enemy or Pyrat: which is as much as to ſay, any man may deſtroy him how he can. Whatever he may be guilty of in other reſpects, he dos in this follow the voice of Mankind, and the dictates of common ſenſe: for no man can make himſelf a Magiſtrate for himſelf, and no man can have the right of a Magiſtrate, who is not a Magiſtrate. If he be juſtly accounted an Enemy to all, who injures all; he above all muſt be the publick Enemy of a Nation, who by uſurping a power over them, dos the greateſt and moſt publick injury that a People can ſuffer: For which reaſon, by an eſtabliſh'd Law among the moſt vertuous Nations, every man might kill a Tyrant; and no Names are recorded in Hiſtory with more honor, than of thoſe who did it. De Civ. l. 2.

Theſe are by other Authors call'd *Tyranni ſine titulo*, and that name is given to all thoſe who obtain the ſupreme Power by illegal and unjuſt means. The Laws which they overthrow can give them no protection; and every man is a Soldier againſt him who is a publick Enemy.

The ſame rule holds, tho they are more in number; as the *Magi*, who uſurp'd the Dominion of *Perſia* after the death of *Cambyſes*; the thirty Tyrants at *Athens* overthrown by *Thraſibulus*; thoſe of *Thebes* ſlain by *Pelopidas*; the *Decemviri* of *Rome*, and others: For tho the multitude of Offenders may ſometimes procure impunity, yet that act which is wicked in one, muſt be ſo in ten or twenty; and whatſoever is lawful againſt one Uſurper, is ſo againſt them all.

2. If thoſe who were rightly created, continue beyond the time limited by the Law, 'tis the ſame thing. That which is expir'd, is as if it had never bin. He that was created Conſul for a year, or Dictator for ſix months, was after that a private man; and if he had continu'd in the exerciſe of his Magiſtracy, had bin ſubject to the ſame puniſhment as if he had uſurp'd it at the firſt. This was known to *Epaminondas*, who finding that his Enterprize againſt *Sparta* could not be accompliſh'd

CHAP. II.

within the time for which he was made *Bœotarches*, rather choſe to truſt his Countrymen with his life than to deſiſt, and was ſav'd merely thro an admiration of his Vertue, aſſurance of his good Intentions, and the glory of the Action.

The *Roman Decemviri*, tho duly elected, were proceeded againſt as private men uſurping the Magiſtracy, when they continu'd beyond their time. Other Magiſtrats had ceas'd; there was none that could regularly call the Senat or People to an Aſſembly: but when their ambition was manifeſt, and the People exaſperated by the death of *Virginia*, they laid aſide all ceremonys. The Senat and People met, and exerciſing their Authority in the ſame manner as if they had bin regularly call'd by the Magiſtrate appointed to that end, they abrogated the Power of the *Decemviri*, proceeded againſt them as Enemys and Tyrants, and by that means preſerv'd themſelves from utter ruin.

3. The ſame courſe is juſtly us'd againſt a legal Magiſtrate, who takes upon him (tho within the time preſcrib'd by the Law) to exerciſe a Power which the Law dos not give; for in that reſpect he is a private man, *Quia*, as *Grotius* ſays, *eatenus non habet imperium*; and may be reſtrain'd as well as any other, becauſe he is not ſet up to do what he liſts, but what the Law appoints for the good of the People: and as he has no other Power than what the Law allows, ſo the ſame Law limits and directs the exerciſe of that which he has. This Right naturally belonging to Nations, is no way impair'd by the name of *Supreme* given to their Magiſtrats; for it ſignifys no more, than that they do act ſovereignly in the matters committed to their charge. Thus are the Parliaments of *France* call'd *Cours Souveraines*; for they judg of Life and Death, determin Controverſys concerning Eſtates; and there is no appeal from their Decrees: but no man ever thought, that it was therefore lawful for them to do what they pleas'd; or that they might not be oppos'd, if they ſhould attempt to do that which they ought not. And tho the *Roman* Dictators and Conſuls were ſupreme Magiſtrats, they were ſubject to the People, and might be puniſh'd as well as others if they tranſgreſt the Law. *Thuanus* carrys the word ſo far, that when *Barlotta*, *Giuſtiniano*, and others who were but Colonels, were ſent as Commanders in chief of three or four thouſand men upon an Enterprize, he always ſays, *Summum Imperium ei delatum*. *Grotius* explains this point, by diſtinguiſhing thoſe who have the *ſummum Imperium ſummo modo*, from thoſe who have it *modo non ſummo*. I know not where to find an Example of this Sovereign Power, enjoy'd without reſtriction, under a better title than *Occupation*; which relates not to our purpoſe, who ſeek only that which is legal and juſt. Therefore laying aſide that point for the preſent, we may follow *Grotius* in examining the right of thoſe who are certainly limited: *Ubi partem Imperii habet Rex, partem Senatus ſive Populus*; in which caſe he ſays, *Regi in partem non ſuam involanti, vis juſta opponi poteſt*, in as much as they who have a part, cannot but have a right of defending that part. *Quia data facultate, datur jus facultatem tuendi*, without which it could be of no effect.

De Jur. Bell. & Pac. l. 2.

The particular limits of the Rights belonging to each, can only be judg'd by the preciſe Letter, or general Intention of the Law. The Dukes of *Venice* have certainly a part in the Government, and could not be call'd Magiſtrats if they had not. They are ſaid to be *ſupreme*; all Laws and publick Acts bear their Names. The Embaſſador of that State ſpeaking to Pope *Paul* the Fifth, deny'd that he acknowledg'd any other Superior

Thuan. l. 137.

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than God. But they are ſo well known to be under the Power of the Law, that divers of 'em have bin put to death for tranſgreſſing it; and a marble Gallows is ſeen at the foot of the ſtairs in St. *Mark*'s Palace, upon which ſome of them, and no others, have bin executed. But if they may be duly oppos'd, when they commit undue Acts, no man of judgment will deny, that if one of them by an outrageous Violence ſhould endeavour to overthrow the Law, he might by violence be ſuppreſt and chaſtis'd. SECT. 24.

Again, ſome Magiſtrats are intruſted with a power of providing Ships, Arms, Ammunition, and Victuals for War; raiſing and diſciplining Soldiers, appointing Officers to command in Forts and Gariſons, and making Leagues with Foreign Princes and States. But if one of theſe ſhould imbezel, ſell, or give to an Enemy thoſe Ships, Arms, Ammunition or Proviſions; betray the Forts; employ only or principally, ſuch men as will ſerve him in thoſe wicked Actions; and, contrary to the truſt repos'd in him, make ſuch Leagues with Foreigners, as tend to the advancement of his perſonal Intereſts, and to the detriment of the Publick, he abrogates his own Magiſtracy; and the Right he had, periſhes (as the Lawyers ſay) *fruſtratione finis*. He cannot be protected by the Law which he has overthrown, nor obtain impunity for his Crimes from the Authority that was conſer'd upon him, only that he might do good with it. He was *ſingulis major* on account of the excellency of his Office; but *univerſis minor*, from the nature and end of his Inſtitution. The ſureſt way of extinguiſhing his Prerogative, was by turning it to the hurt of thoſe who gave it. When matters are brought to this poſture, the Author of the miſchief, or the Nation muſt periſh. A Flock cannot ſubſiſt under a Shepherd that ſeeks its ruin, nor a People under an unfaithful Magiſtrate. Honor and Riches are juſtly heap'd upon the heads of thoſe who rightly perform their duty, becauſe the difficulty as well as the excellency of the work is great. It requires Courage, Experience, Induſtry, Fidelity and Wiſdom. *The good Shepherd*, ſays our Saviour, *lays down his life for his Sheep:* The Hireling who flies in time of danger, is repreſented under an ill character; but he that ſets himſelf to deſtroy his Flock, is a Wolf. His Authority is incompatible with their ſubſiſtence; and whoever diſapproves Tumults, Seditions or War, by which he may be remov'd from it, if gentler means are ineffectual, ſubverts the Foundation of all Law, exalts the fury of one man to the deſtruction of a Nation; and giving an irreſiſtible Power to the moſt abominable Iniquity, expoſes all that are good to be deſtroy'd, and Vertue to be utterly extinguiſh'd.

Few will allow ſuch a Preeminence to the Dukes of *Venice* or *Genoa*, the Advoyers of *Switzerland*, or the Burgomaſters of *Amſterdam*. Many will ſay theſe are Raſcals if they prove falſe, and ought rather to be hang'd, than ſuffer'd to accompliſh the Villanys they deſign. But if this be confeſt in relation to the higheſt Magiſtrats that are among thoſe Nations, why ſhould not the ſame be in all others, by what name ſoever they are call'd? When did God confer upon thoſe Nations the extraordinary privilege of providing better for their own ſafety than others? Or was the Gift univerſal, tho the Benefit accrue only to thoſe who have baniſh'd great Titles from among them? If this be ſo, 'tis not their Felicity, but their Wiſdom that we ought to admire and imitate. But why ſhould any think their Anceſtors had not the ſame care? Have not they, who retain'd in themſelves a Power over a Magiſtrate of one name, the like

CHAP. II.

like over another? Is there a charm in words, or any name of ſuch efficacy, that he who receives it ſhould immediately become Maſter of thoſe that created him, whereas all others do remain for ever ſubject to them? Would the *Venetian* Government change its nature, if they ſhould give the name of King to their Prince? Are the *Polanders* leſs free ſince the title of King is conſer'd upon their Dukes; or are the *Moſcovites* leſs Slaves, becauſe their chief Magiſtrate has no other than that of Duke? If we examin things but a little, 'twill appear that Magiſtrats have enjoy'd large Powers, who never had the name of Kings; and none were ever more reſtrain'd by Laws than thoſe of *Sparta*, *Arragon*, the *Goths* in *Spain*, *Hungary*, *Bohemia*, *Sweden*, *Denmark*, *Poland*, and others, who had that Title. There is therefore no ſuch thing as a Right univerſally belonging to a Name; but every one enjoys that which the Laws, by which he is, conſer upon him. The Law that gives the Power, regulates it; and they who give no more than what they pleaſe, cannot be oblig'd to ſuffer him to whom they give it, to take more than they thought fit to give, or to go unpuniſh'd if he do. The Agreements made are always confirm'd by Oath, and the treachery of violating them is conſequently aggravated by Perjury. They are good Philoſophers and able Divines, who think this can create a Right to thoſe who had none; or that the Laws can be a protection to ſuch as overthrow them, and give opportunity of doing the miſchiefs they deſign. If it do not, then he that was a Magiſtrate, by ſuch actions returns into the condition of a private man; and whatever is lawful againſt a Thief who ſubmits to no Law, is lawful againſt him.

Men who delight in cavils may ask, Who ſhall be the Judg of theſe occaſions? And whether I intend to give to the People the deciſion of their own Cauſe? To which I anſwer, that when the conteſt is between the Magiſtrate and the People, the party to which the determination is refer'd, muſt be the Judg of his own caſe; and the queſtion is only, Whether the Magiſtrate ſhould depend on the Judgment of the People, or the People on that of the Magiſtrate; and which is moſt to be ſuſpected of injuſtice: That is, whether the People of *Rome* ſhould judg *Tarquin*, or *Tarquin* judg the People. He that knew all good men abhor'd him for the murder of his Wife, Brother, Father-in-law, and the beſt of the Senat, would certainly ſtrike off the heads of the moſt eminent remaining Poppys; and having incur'd the general hatred of the people by the wickedneſs of his Government, he fear'd revenge; and endeavouring to deſtroy thoſe he fear'd (that is the City) he might eaſily have accompliſh'd his work, if the judgment had bin refer'd to him. If the People judg *Tarquin*, 'tis hard to imagin how they ſhould be brought to give an unjuſt Sentence: They lov'd their former Kings, and hated him only for his Villanys: They did not fancy, but know his cruelty. When the beſt were ſlain, no man that any way reſembled them could think himſelf ſecure. *Brutus* did not pretend to be a Fool, till by the murder of his Brother he found how dangerous a thing it was to be thought wiſe. If the people, as our Author ſays, be always leud, fooliſh, mad, wicked, and deſirous to put the Power into the hands of ſuch as are moſt like to themſelves, he and his Sons were ſuch men as they ſought, and he was ſure to find favourable Judges: If vertuous and good, no injuſtice was to be fear'd from them, and he could have no other reaſon to decline their judgment, than what was ſuggeſted by his own wickedneſs. *Caligula*, *Nero*, *Domitian*, and the like, had probably the ſame conſiderations: But no man of com-

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mon ſenſe ever thought that the Senat and People of *Rome* did not better deſerve to judg, whether ſuch Monſters ſhould reign over the beſt part of mankind to their deſtruction, than they to determin whether their Crimes ſhould be puniſh'd or not. SECT. 24.

If I mention ſome of theſe known Caſes, every man's experience will ſuggeſt others of the like nature; and whoſoever condemns all Seditions, Tumults and Wars rais'd againſt ſuch Princes, muſt ſay, that none are wicked, or ſeek the ruin of their People, which is abſurd: for *Caligula* wiſh'd the People had but one Neck, that he might cut it off at a blow; *Nero* ſet the City on fire; and we have known ſuch as have bin worſe than either of them: They muſt either be ſuffer'd to continue in the free exerciſe of their rage, that is, to do all the miſchief they deſign; or muſt be reſtrain'd by a legal, judicial, or extrajudicial way; and they who diſallow the extrajudicial, do as little like the judicial. They will not hear of bringing a ſupreme Magiſtrate before a Tribunal, when it may be done. *They will*, ſays our Author, *depoſe their Kings*. Why ſhould they not be depos'd, if they become Enemys to their People, and ſet up an intereſt in their own perſons inconſiſtent with the publick good, for the promoting of which they were erected? If they were created by the publick conſent, for the publick good, ſhall they not be remov'd when they prove to be of publick damage? If they ſet up themſelves, may they not be thrown down? Shall it be lawful for them to uſurp a Power over the liberty of others, and ſhall it not be lawful for an injur'd People to reſume their own? If injuſtice exalt it ſelf, muſt it be for ever eſtabliſh'd? Shall great Perſons be render'd ſacred by rapine, perjury and murder? Shall the crimes for which private men do juſtly ſuffer the moſt grievous puniſhments, exempt them from all, who commit them in the higheſt exceſs, with moſt power, and moſt to the prejudice of mankind? Shall the Laws that ſolely aim at the prevention of Crimes, be made to patronize them, and become ſnares to the innocent whom they ought to protect? Has every man given up into the common ſtore his right of avenging the Injurys he may receive, that the publick Power which ought to protect or avenge him, ſhould be turn'd to the deſtruction of himſelf, his Poſterity, and the Society into which they enter, without any poſſibility of redreſs? Shall the Ordinance of God be render'd of no effect; or the Powers he has appointed to be ſet up for the diſtribution of Juſtice, be made ſubſervient to the luſts of one or a few men, and by impunity incourage them to commit all manner of crimes? Is the corruption of man's Nature ſo little known, that ſuch as have common ſenſe ſhould expect Juſtice from thoſe, who fear no puniſhment if they do Injuſtice; or that the modeſty, integrity, and innocence, which is ſeldom found in one man, tho never ſo cautiouſly choſen, ſhould be conſtantly found in all thoſe who by any means attain to Greatneſs, and continue for ever in their Succeſſors; or that there can be any ſecurity under their Government, if they have them not? Surely if this were the condition of men living under Government, Foreſts would be more ſafe than Citys; and 'twere better for every man to ſtand in his own defence, than to enter into Societys. He that lives alone might encounter ſuch as ſhould aſſault him upon equal terms, and ſtand or fall according to the meaſure of his courage and ſtrength; but no Valor can defend him, if the malice of his Enemy be upheld by a publick Power. There muſt therefore be a right of proceeding judicially or extrajudicially againſt all perſons who tranſgreſs the Laws, or elſe thoſe Laws, and the Societys that ſhould ſubſiſt by them,

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cannot

CHAP. II. cannot ſtand; and the ends for which Governments are conſtituted, together with the Governments themſelves, muſt be overthrown. Extrajudicial proceedings by Sedition, Tumult, or War, muſt take place, when the perſons concern'd are of ſuch power, that they cannot be brought under the Judicial. They who deny this, deny all help againſt an uſurping Tyrant, or the perfidiouſneſs of a lawfully created Magiſtrate, who adds the crimes of Ingratitude and Treachery to Uſurpation. Theſe of all men are the moſt dangerous Enemys to ſupreme Magiſtrats: for as no man deſires indemnity for ſuch Crimes as are never committed, he that would exempt all from punishment, ſuppoſes they will be guilty of the worſt; and by concluding that the People will depoſe them if they have the power, acknowledg that they purſue an Intereſt annex'd to their Perſons, contrary to that of their People, which they would not bear if they could deliver themſelves from it. This ſhewing all thoſe Governments to be tyrannical, lays ſuch a burden upon thoſe who adminiſter them, as muſt neceſſarily weigh them down to deſtruction.

If it be ſaid that the word Sedition implys that which is evil; I anſwer, that it ought not then to be apply'd to thoſe who ſeek nothing but that which is juſt; and tho the ways of delivering an oppreſt People from the violence of a wicked Magiſtrate, who having arm'd a Crew of leud Villains, and fatted them with the Blood and Confiſcations of ſuch as were moſt ready to oppoſe him, be extraordinary, the inward righteouſneſs of the Act dos fully juſtify the Authors. He that has vertue and power to ſave a People, can never want a right of doing it. *Valerius Aſiaticus* had no hand in the death of *Caligula*; but when the furious Guards began tumultuouſly to inquire who had kill'd him, he appeaſed them with *wiſhing he had bin the man.* No wiſe man ever ask'd by what authority *Thraſibulus*, *Harmodius*, *Ariſtogiton*, *Pelopidas*, *Epaminondas*, *Dion*, *Timoleon*, *Lucius Brutus*, *Publicola*, *Horatius*, *Valerius*, *Marcus Brutus*, *C. Caſſius*, and the like, deliver'd their Countrys from Tyrants. Their Actions carry'd in them their own juſtification, and their Vertues will never be forgotten whilſt the names of *Greece* and *Rome* are remember'd in the World.

If this be not enough to declare the Juſtice inherent in, and the Glory that ought to accompany theſe Works, the examples of *Moſes*, *Aaron*, *Othniel*, *Ehud*, *Barac*, *Gideon*, *Samuel*, *Jephtha*, *David*, *Jehu*, *Jehoiada*, the *Maccabees*, and other holy men rais'd up by God for the deliverance of his People from their Oppreſſors, decide the Queſtion. They are perpetually renown'd for having led the People by extraordinary ways (which ſuch as our Author expreſs under the names of Sedition, Tumult, and War) to recover their Libertys, and avenge the injurys receiv'd from foreign or domeſtick Tyrants. The work of the Apoſtles was not in their time to ſet up or pull down any civil State; but they ſo behav'd themſelves in relation to all the Powers of the Earth, that they gain'd the name of peſtilent ſeditious Fellows, Diſturbers of the People; and left it as an inheritance to thoſe, who in ſucceeding Ages by following their ſteps ſhould deſerve to be call'd their Succeſſors; whereby they were expos'd to the hatred of corrupt Magiſtrats, and brought under the neceſſity of periſhing by them, or defending themſelves againſt them: and he that denys them that right, dos at once condemn the moſt glorious Actions of the wiſeſt, beſt, and holieſt men that have bin in the world, together with the Laws of God and Man, upon which they were founded.

Nevertheleſs,

Nevertheleſs, there is a ſort of Sedition, Tumult, and War proceeding from Malice, which is always deteſtable, aiming only at the ſatisfaction of private Luſt, without regard to the publick Good. This cannot happen in a Popular Government, unleſs it be amongſt the Rabble; or when the Body of the People is ſo corrupted, that it cannot ſtand; but is moſt frequent in, and natural to abſolute Monarchys. When *Abimelech* deſir'd to make himſelf King, he rais'd a Tumult among the baſeſt of the People: He hir'd light and vain Perſons, ſome Tranſlations call them leud Vagabonds, kill'd his Brethren, but periſh'd in his deſign; the corrupt party that favor'd him not having Strength enough to ſubdue the other, who were more ſincere. *Sp. Melius*, *Sp. Caſſius*, and *Manlius* attempted the like in *Rome:* they acted maliciouſly, their pretences to procure the publick Good were falſe. 'Tis probable that ſome in the City were as bad as they, and knew that miſchief was intended; but the Body of the People not being corrupted, they were ſuppreſt. It appear'd, ſays *Livy*, *Nihil eſſe minus populare quam regnum:* they who had favor'd *Manlius*, condemn'd him to death when it was prov'd, that *egregias alioqui virtutes fœda regni cupidine maculaſſet.* But when the People is generally corrupted, ſuch deſigns ſeldom miſcarry, and the ſucceſs is always the erection of a Tyranny. Nothing elſe can pleaſe vain and profligate perſons, and no Tyranny was ever ſet up by ſuch as were better qualify'd. The ways of attaining it have always bin by corrupting the manners of the People, bribing Soldiers, entertaining mercenary Strangers, opening Priſons, giving Liberty to Slaves, alluring indigent perſons with hopes of aboliſhing Debts, coming to a new diviſion of Lands, and the like. Seditions rais'd by ſuch men always tend to the ruin of popular Governments; but when they happen under abſolute Monarchys, the hurt intended is only to the Perſon, who being remov'd, the Promoters of 'em ſet up another; and he that is ſet up, ſubſiſting only by the ſtrength of thoſe who made him, is oblig'd to foment the Vices that drew them to ſerve him; tho another may perhaps make uſe of the ſame againſt him.

SECT. 24.

Judg. 9.

The conſequence of this is, That thoſe who uphold popular Governments, look upon Vice and Indigence as miſchiefs that naturally increaſe each other, and equally tend to the ruin of the State. When men are by Vice brought into want, they are ready for miſchief: there is no Villany that men of profligate Lives, loſt Reputation, and deſperate Fortunes will not undertake. Popular Equality is an enemy to theſe; and they who would preſerve it, muſt preſerve integrity of Manners, Sobriety, and an honeſt contentedneſs with what the Law allows. On the other ſide, the abſolute Monarch, who will have no other Law than his own Will, deſires to increaſe the number of thoſe who thro leudneſs and beggery may incline to depend upon him; tho the ſame temper of Mind, and condition of Fortune prepare them alſo for ſuch Seditions as may bring him into danger; and the ſame corruption which led them to ſet him up, may invite them to ſell him to another that will give them better wages.

I do not by this conclude that all Monarchs are vicious men; but that whoever will ſet up an abſolute Power, muſt do it by theſe means; and that if ſuch a Power be already eſtabliſh'd, and ſhould fall into the hands of a perſon, who by his Vertue and the gentleneſs of his Nature ſhould endeavor to render the Yoke ſo eaſy, that a better diſciplin'd People might be contented to bear it; yet this method could laſt no longer than

CHAP. II. his life, and probably would be a means to ſhorten it; that which was at firſt eſtabliſh'd by evil Arts always returning to the ſame: That which was vicious in the principle, can never be long upheld by Vertue; and we ſee that the worſt of the *Roman* Emperors were not in greater danger from ſuch good men as remain'd undeſtroy'd, than the beſt from the corrupt Party that would not be corrected, and ſought ſuch a Maſter as would lay no reſtriction upon their Vices. Thoſe few who eſcap'd the rage of theſe Villains, only gave a little breathing time to the afflicted World, which by their Children or Succeſſors was again plung'd into that extremity of miſery, from which they intended to deliver it. An extraordinary Vertue was requir'd to keep a Prince in a way contrary to the principles of his own Government; which being rarely found, and never continuing long in a Family or Succeſſion of men, the endeavors of the beſt became ineffectual, and either they themſelves periſh'd in them, or after their death all things return'd into the old polluted Channel.

Tho the Power of the Hebrew Kings was not unlimited, yet it exceeded the Rules ſet by God, and was ſufficient to increaſe the number of the worſt of men, and to give them opportunitys of raiſing perpetual diſturbances. On the King's ſide there were Flatterers and Inſtruments of miſchief: On the other ſide there were indebted and diſcontented Perſons. Notwithſtanding the Juſtice of *David*'s cauſe, the Wiſdom, Valor, and Piety of his Perſon, none would follow him, except a few of his own Kindred (who knew what God had promis'd to him) and ſuch as were uneaſy in their worldly circumſtances. After the death of *Saul* there was a long and bloody War between *Iſhboſheth* and *David*. The former being kill'd, the ſlighteſt matters were ſufficient to put the whole Nation into blood. *Abſalom* with a few fair words was able to raiſe all *Iſrael* againſt his Father: *Sheba* the Son of *Bichri* with as much eaſe rais'd a more dangerous Tumult: *David*, by Wiſdom, Valor, and the Bleſſing of God, ſurmounted theſe Difficultys, and prepar'd a peaceable Reign for *Solomon*: but after his death they broke out into a Flame that was never quench'd, till the Nation was ſo diſpers'd that no man knew where to find his Enemys. *Solomon* by his Magnificence had reduc'd *Iſrael* to ſuch poverty, as inclin'd them to revolt upon the firſt offer of an opportunity by *Jeroboam*. From that time forward *Iſrael* was perpetually vex'd with Civil Seditions and Conſpiracys, or Wars with their Brethren of *Judah*. Nine Kings with their Familys were deſtroy'd by the firſt, and the latter brought ſuch Slaughters upon the miſerable People, as were never ſuffer'd by any who were not agitated by the like Fury; and the courſe of theſe miſchiefs was never interrupted, till they had brought the Nation into Captivity, and the Country to Deſolation. Tho God according to his promiſe did preſerve a light in the Houſe of *David*, yet the Tribe of *Judah* was not the more happy. *Joaſh* was ſlain by a private Conſpiracy, and *Amaziah* (as is moſt probable) by publick Authority, for having fooliſhly brought a terrible Slaughter upon *Judah*. *Athaliah* deſtroy'd the King's Race, and was kill'd her ſelf by *Jehoiada*, who not having learn'd from our Author to regard the Power only, and not the ways by which it was obtain'd, caus'd her to be drag'd out of the Temple, and put to a well-deſerv'd Death. The whole Story is a Tragedy: and if it be pretended that this proceeded rather from the wrath of God againſt his People for their Idolatry, than from ſuch cauſes as are applicable to other Nations; I anſwer, that this Idolatry was the

production

production of the Government they had set up, and most sutable to it; and chusing rather to subject themselves to the Will of a man than to the Law of God, they deservedly suffer'd the evils that naturally follow the worst Counsels. We know of none who, taking the like course, have not suffer'd the like miserys. Notwithstanding the admirable Vertue and Succes of *Alexander*, his Reign was full of Conspiracys, and his knowledg of them prompted him to destroy *Parmenio*, *Philotas*, *Clitus*, *Calisthenes*, *Hermolaus*, and many more of his best Friends. If he escap'd the Sword, he fell by Poison. The Murder of his Wives, Mother, and Children, by the rage of his own Soldiers; the Fury of his Captains imploy'd in mutual Slaughters, till they were consum'd; his paternal Kingdom after many Revolutions transfer'd to *Cassander* his most mortal Enemy; the utter extinction of his conquering Army, and particularly the famous *Argyraspides*, who being grown faithless and seditious, after the death of *Eumenes* were sent to perish in unknown parts of the East, abundantly testify the admirable stability, good order, peace, and quiet that is enjoy'd under absolute Monarchy. The next Government of the like nature that appear'd upon the Stage of the World was that of *Rome*, introduc'd by Wars that consum'd two thirds of the People; confirm'd by Proscriptions, in which all that were eminent for Nobility, Riches, or Vertue, perish'd. The peace they had under *Augustus* was like that which the Devil allow'd to the Child in the Gospel, whom he rent sorely, and left as dead. The miserable City was only cast into a Swound: after long and violent vexations by Seditions, Tumults, and Wars, it lay as dead; and finding no helper like to him who cur'd the Child, it was deliver'd to new Devils to be tormented, till it was utterly destroy'd. *Tiberius* was appointed as a fit instrument for such a purpose. It was thought that those who should feel the effects of his Pride, Cruelty, and Lust, would look upon the Death of *Augustus* as a loss. He perform'd the work for which he was chosen; his Reign was an uninterrupted Series of Murders, Subornations, Perjurys, and Poisonings, intermix'd with the most detestable Impuritys, the revolts of Provinces, and Mutinys of Armys. The matter was not mended by his Successors: *Caligula* was kill'd by his own Guards; *Claudius* poison'd by his Wife: *Spain*, *Gaul*, *Germany*, *Pannonia*, *Mæsia*, *Syria*, and *Ægypt*, revolted at once from *Nero*; the People and Senat follow'd the example of the Provinces. This I think was, in our Author's sense, Sedition with a witness. *Nero* being dead by the hand of a Slave, or his own, to prevent that of the Hangman, *Galba* enter'd the City with Blood and Slaughter; but when his own Soldiers found he would not give the Mony for which they intended to sell the Empire, they kill'd him: and to shew the stability of Absolute Monarchy, it may be observ'd, that this was not done by the advice of the Senat, or by a conspiracy of great men; *Suscepêre duo manipulares Populi Romani Imperium transferendum, & transtulerunt.* Two Rascals gave the Empire to *Otho*, and the whole Senat was like to be butcher'd for not being so ready to follow their venerable Authority as they ought to have bin, and hardly escap'd the fury of their mad and drunken Companions. As a farther testimony that these Monarchys are not subject to Seditions and Tumults, he had at once only two Competitors against whom he was to defend the well-acquir'd Empire: His Army was defeated at *Brescia*, he kill'd himself; and his Successor *Vitellius* was soon after thrown into the Common-shore. The same method still continu'd: *Rome* was fill'd with Blood and Ashes; and to recite all the

SECT. 24.

Mark 9. 26.

C. Tacit. Hist. l. 1.

CHAP. II.

publick Miſchiefs would be to tranſcribe the Hiſtory: For as *Pyrrhus* being ask'd who ſhould ſucceed him, anſwer'd, He who has the ſharpeſt Sword; that was the only Law that govern'd in the following ages. Whoever could corrupt two or three Legions, thought he had a good title to the Empire; and unleſs he happen'd to be kill'd by Treachery, or another Tumult of his own Soldiers, he ſeldom receded from it without a Battel, wherein he that was moſt ſucceſsful, had no other ſecurity than what the preſent temper of the Soldiers afforded him: and the miſerable Provinces having neither Vertue nor Force, were oblig'd ſlaviſhly to follow the fury or fortune of thoſe Villains. In this ſtate did *Rome* dedicate to *Conſtantine* the Triumphal Arch that had bin prepar'd for *Maxentius*; and thoſe Provinces which had ſet up *Albinus* and *Niger* ſubmitted to *Septimius Severus*. In the vaſt variety of Accidents that in thoſe Ages diſturb'd the World, no Emperor had a better title than what he purchas'd by Mony or Violence; and enjoy'd it no longer than thoſe helps continu'd, which of all things were the moſt uncertain. By this means moſt of the Princes periſh'd by the Sword, *Italy* was made deſolate, and *Rome* was ſeveral times ſack'd and burnt. The Miſtreſs of the World being made a Slave, the Provinces which had bin acquir'd by the Blood of her antient vertuous Citizens, became part of an Uſurper's Patrimony, who without any regard to the publick good, diſtributed 'em to his Children according to their number, or his paſſion. Theſe either deſtroy'd one another, or fell under the Sword of a third who had the fortune of their Father, the greateſt part moſt commonly falling to the ſhare of the worſt. If at any time the contrary happen'd, the Government of the beſt was but a lucid interval, and well-wiſhing men grew more extremely to abhor the darkneſs that follow'd when they were gone. The beſt of 'em could do no more than ſuſpend miſchief for a while, but could not correct the corrupt principle of their Government; and ſome of 'em were deſtroy'd as ſoon as they were thought to intend it: Others who finiſh'd their days in peace, left the Empire to ſuch perſons of their relations as were moſt unlike to them. *Domitian* came in as Brother to *Titus*. *Commodus* and *Heliogabalus* were recommended by the memory of thoſe Vertues that had bin found in *Antoninus* and *Aurelius*. *Honorius* and *Arcadius*, who by their baſeneſs brought utter ruin upon the Weſtern and Eaſtern Empires, were the Sons of the brave *Theodoſius*. They who could keep their hands free from Blood, and their Hearts from Malice, Covetouſneſs, and Pride, could not tranſmit their Vertues to their Succeſſors, nor correct the perverſeneſs that lay at the root and foundation of their Government. The whole maſs of Blood was vitiated: the Body was but one vaſt Sore, which no hand but that of the Almighty could heal; and he who from an abhorrence of iniquity had declar'd he would not hear the crys of his own people, when they had choſen the thing that was not good, would not ſhew mercy to Strangers who had done the ſame thing.

I have inſiſted upon the *Hebrew*, *Macedonian* and *Roman* Hiſtorys, becauſe they are the moſt eminent and beſt known to us: We are in the dark concerning the *Babylonian*, *Aſſyrian*, *Chaldean*, *Bactrian*, and *Egyptian* Monarchys: We know little more of them than the Scripture occaſionally relates concerning their barbarous cruelty, beſtial pride, and extravagant folly. Others have bin like to them, and I know not where to find a peaceable Monarchy unleſs it be in *Peru*, where the *Ynca Garcilaſſo de la Vega* ſays, that a Man and a Woman, Children of the Sun and the Moon,

Moon, appearing amongſt a barbarous people living without any Religion or Law, eſtabliſh'd a Government amongſt them, which continu'd in much Peace and Juſtice for twelve Generations: But this ſeeming to be as fabulous as their Birth, we may paſs it over, and fix upon thoſe that are better known; of which there is not one that has not ſuffer'd more dangerous and miſchievous Seditions, than all the popular Governments that have bin in the World: And the condition of thoſe Kingdoms which are not abſolute, and yet give a preference to Birth, without conſideration of Merit or Vertue, is not much better. SECT. 24.

This is prov'd by the Reaſons of thoſe Seditions and Tumults, as well as from the Fact it ſelf.

The Reaſons ariſe from the violence of the Paſſions that incite men to them, and the intricacy of the Queſtions concerning Succeſſion.

Every man has Paſſions; few know how to moderate, and no one can wholly extinguiſh them. As they are various in their nature, ſo they are govern'd by various Objects; and men uſually follow that which is predominant in them, whether it proceed from Anger or Deſire, and whether it terminate in Ambition, Covetouſneſs, Luſt, or any other more or leſs blamable Appetite. Every manner of life furniſhes ſomething, that in ſome meaſure may foment theſe; but a Crown comprehends all that can be grateful to the moſt violent and vicious. He who is covetous, has vaſt Revenues, beſides what he may get by fraud and rapine, to ſatisfy his Appetite. If he be given to Senſuality, the variety of pleaſures, and the facility of accompliſhing whatever he deſires, tends farther to inflame that Paſſion. Such as are ambitious, are incited by the greatneſs of their Power to attempt great matters; and the moſt ſottiſh or lazy may diſcharge themſelves of Cares, and hope that others will be eaſily hir'd to take the burden of Buſineſs upon them whilſt they lie at eaſe. They who naturally incline to pride and cruelty, are more violently tempted to uſurp Dominion; and the wicked Advices of Flatterers, always concurring with their Paſſions, incite them to exerciſe the Power they have gotten with the utmoſt rigor, to ſatiate their own rage, and to ſecure themſelves againſt the effects of the publick hatred, which they know they have deſerv'd. If there be, as our Author ſays, no other Rule than Force and Succeſs, and that he muſt be taken for the Father of a People who is in poſſeſſion of a Power over them; whoever has the one, may put the other to a trial. Nay, even thoſe who have regard to Juſtice, will ſeldom want Reaſons to perſuade them that it is on their ſide. Something may be amiſs in the State; Injurys may be done to themſelves and their Friends. Such Honors may be deny'd as they think they deſerve; or others of leſs Merit, as they ſuppoſe, may be prefer'd before them. Men do ſo rarely make a right eſtimate of their own Merits, that thoſe who mean well may be often deceiv'd: and if nothing but Succeſs be requir'd to make a Monarch, they may think it juſt to attempt whatever they can hope to accompliſh. This was the caſe of *Julius Cæſar*; he thought all things * lawful, when the Conſulat, which he ſuppos'd he had deſerv'd, was deny'd. Theſe Enterprizes ſeem to belong to men of great Spirits; but there are none ſo baſe not to be capable of undertaking, and (as things may ſtand) of bringing 'em to perfection. Hi-

* Viribus utendum eſt quas fecimus: arma tenenti
Omnia dat qui juſta negat. *Lucan.*

ſtory

CHAP. II.

ſtory repreſents no man under a more contemptible character of ſottiſh Lazineſs, Cowardice, and Drunkenneſs, than *Vitellius*; no one more impure and ſordid than *Galba*: *Otho* was advanc'd for being in his manners like to *Nero*: *Veſpaſian* was ſcorn'd for his Avarice, till the Power fell into ſuch hands as made the world believe none could be unworthy of the Empire; and in the following Ages the worſt men by the worſt means moſt frequently obtain'd it.

Theſe Wounds are not cur'd by ſaying, that the Law of God and Nature prevents this miſchief, by annexing the Succeſſion of Crowns to proximity of Blood; for mankind had not bin continually afflicted with them if there had bin ſuch a Law, or that they could have bin prevented by it: and tho there were ſuch a Law, yet more Queſtions would ariſe about that Proximity, than any wiſe man would dare to determin. The Law can be of no effect, unleſs there be a Power to decide the Conteſts ariſing upon it: But the fundamental Maxim of the great Monarchys is, that there can be no *Interregnum*: The Heir of the Crown is in poſſeſſion, as ſoon as he who did injoy it is dead. *Le Mort*, as the *French* ſay, *Saiſit le vif*: There can be therefore no ſuch Law, or it ſerves for nothing. If there be Judges to interpret the Law, no man is a King till judgment be given in his favor; and he is not King by his own Title, but by the Sentence given by them. If there be none, the Law is merely imaginary, and every man may in his own caſe make it what he pleaſes. He who has a Crown in his view, and Arms in his hand, wants nothing but ſucceſs to make him a King; and if he proſpers, all men are oblig'd to obey him.

'Tis a folly to ſay the matter is clear, and needs no deciſion; for every man knows that no Law concerning privat Inheritances can be ſo exactly drawn, but many Controverſys will ariſe upon it, that muſt be decided by a Power to which both Partys are ſubject: and the diſputes concerning Kingdoms are ſo much the more difficult, becauſe this Law is no where to be found; and the more dangerous, becauſe the Competitors are for the moſt part more powerful.

Again, this Law muſt either be general to all Mankind, or particular to each Nation. If particular, a matter of ſuch importance requires good proof, when, where, how, and by whom it was given to every one. But the Scriptures teſtifying to the contrary, that God gave Laws to the *Jews* only, and that no ſuch thing as hereditary Monarchy, according to proximity of Blood, was preſcrib'd by them, we may ſafely ſay, that God never gave any ſuch Law to every particular, nor to any Nation. If he did not give it to any one, he did not give it to all, for every one is comprehended in all; and if no one has it, 'tis impoſſible that all can have it; or that it ſhould be obligatory to all, when no man knows or can tell, when, where, and by what hand it was given, nor what is the ſenſe of it: all which is evident by the various Laws and Cuſtoms of Nations in the diſpoſal of hereditary Succeſſions: And no one of them, that we know, has to this day bin able to ſhew that the method follow'd by them, is more according to nature than that of others.

If our Author pretends to be God's Interpreter, and to give the ſolution of theſe doubts, I may ask which of the five following ways are appointed by God, and then we may examin Caſes reſulting from them.

1. In

SECT. 24.

1. In *France*, *Turky*, and other places, the Succeſſion comes to the next Male, in the ſtreight eldeſt Line, according to which the Son is prefer'd before the Brother of him who laſt enjoy'd the Crown, (as the preſent King of *France* before his Uncle the Duke of *Orleans*) and the Son of the eldeſt before the Brothers of the eldeſt; as in the caſe of *Richard* the Second of *England*, who was advanc'd preferably to all the Brothers of the black Prince his Father.

2. Others keep to the Males of the reigning Family, yet have more regard to the eldeſt Man than to the eldeſt Line: and Repreſentation taking no place among them, the eldeſt Man is thought to be neareſt to the firſt King; and a ſecond Son of the Perſon that laſt reign'd, to be nearer to him than his Grandchild by the eldeſt Son: according to which Rule, any one of the Sons of *Edward* the Third remaining after his death, ſhould have bin prefer'd before *Richard* the Second who was his Grandchild.

3. In the two caſes beforemention'd, no manner of regard is had to Females, who being thought naturally uncapable of commanding Men, or performing the Functions of a Magiſtrate, are, together with their Deſcendents, utterly excluded from the ſupreme as well as from the inferior Magiſtracys; and in *Turky*, *France*, and other great Kingdoms, have no pretence to any Title: But in ſome places, and particularly in *England*, the advantages of Proximity belong to them as well as to Males; by which means our Crown has bin tranſported to ſeveral Familys and Nations.

4. As in ſome places they are utterly rejected, and in others receiv'd ſimply without any condition; ſo thoſe are not wanting, where that of not marrying out of the Country, or without the conſent of the Eſtates, is impos'd, of which *Sweden* is an Example.

5. In ſome places Proximity of Blood is only regarded, whether the Iſſue be legitimate, or illegitimate; in others Baſtards are wholly excluded.

By this variety of Judgments made by ſeveral Nations upon this Point, it may appear, that tho it were agreed by all that the next in Blood ought to ſucceed, yet ſuch Conteſts would ariſe upon the interpretation and application of the general Rule, as muſt neceſſarily be a perpetual Spring of irreconcilable and mortal Quarrels.

If any man ſay, The Rule obſerv'd in *England* is that which God gave to Mankind; I leave him firſt to diſpute that point with the Kings of *France*, and many others, who can have no right to the Crowns they wear, if it be admitted; and in the next place to prove that our Anceſtors had a more immediate communication with God, and a more certain knowledg of his Will than others, who for any thing we know, may be of Authority equal to them: But in the mean time we may rationally conclude, that if there be ſuch a Rule, we have had no King in *England* for the ſpace of almoſt a thouſand years, having not had one who did not come to the Crown by a moſt manifeſt violation of it; as appears by the forecited Examples of *William* the Firſt and Second; *Henry* the Firſt; *Henry* the Second and his Children; *John*, *Edward* the Third, *Henry* the Fourth, *Edward* the Fourth and his Children; *Henry* the Seventh, and all that claim under any of them. And if Poſſeſſion or Succeſs can give a right, it will I think follow, that *Jack Straw*, *Wat Tyler*, *Perkin Warbeck*, or any other Raſcal, might have had it if he had bin as happy as bold in his Enterprize. This is no leſs than to expoſe Crowns to the firſt

that

CHAP. II.

that can ſeize them, to deſtroy all Law and Rule, and to render Right a ſlave to Fortune. If this be ſo, a late Earl of *Pembroke*, whoſe underſtanding was not thought great, judg'd rightly when he ſaid his Grandfather was a wiſe man tho he could neither write nor read, in as much as he reſolv'd to follow the Crown, tho it were upon a Coalſtaff. But if this be ſufficient to make a wiſe man, 'tis pity the ſecret was no ſooner diſcover'd, ſince many, who for want of it liv'd and dy'd in all the infamy that juſtly accompanys Knavery, Cowardice and Folly, might have gain'd the reputation of the moſt excellent Men in their ſeveral ages. The bloody Factions with which all Nations ſubject to this ſort of Monarchy have bin perpetually vex'd, might have bin prevented by throwing up croſs or pile, or by battel between the Competitors body to body, as was done by *Corbis* and *Orſua*, *Cleoreſtes* and *Polinices*, *Ironſide* and *Canutus*; it being moſt unreaſonable, or rather impiouſly abſurd, for any to venture their Lives and Fortunes, when their Conſciences are not concern'd in the Conteſt, and that they are to gain nothing by the Victory.

If Reaſon teaches, that till this expeditious way of ending Controverſys be receiv'd, the Ambition of men will be apt to imbroil Nations in their Quarrels; and others judging variouſly of thoſe matters, which can be reduc'd to no certain Rule, will think themſelves in Conſcience oblig'd to follow the party that ſeems to them to be moſt juſt: Experience manifeſts the ſame, and that Ambition has produc'd more violent miſchiefs than all the other deſires and paſſions that have ever poſſeſt the hearts of men. That this may appear, it will not be amiſs to divide theſe miſchiefs, into ſuch as proceed from him who is in poſſeſſion of the Power, thro jealouſy of State, as they call it, to prevent the enterprizes of thoſe who would diſpoſſeſs him, and ſuch as ariſe between Competitors contending for it.

Tarquin's Counſel concerning the Poppys, and *Periander*'s heads of Corn, are of the firſt ſort. The moſt eminent are always moſt fear'd, as the readieſt to undertake, and moſt able to accompliſh great Deſigns. This eminence proceeds from Birth, Riches, Vertue, or Reputation, and is ſometimes wrought up to the greateſt height by a conjunction of all theſe. But I know not where to find an example of ſuch a man, who could long ſubſiſt under Abſolute Monarchy. If he be of high Birth, he muſt, like *Brutus*, conceal his Vertue, and gain no reputation, or reſolve to periſh, if he do not prevent his own death by that of the Tyrant: All other ways are ineffectual; the ſuſpicions, fears and hatred thereupon ariſing, are not to be remov'd: Perſonal reſpects are forgotten, and ſuch ſervices as cannot be ſufficiently valu'd, muſt be blotted out by the death of thoſe who did them. Various ways may be taken, and pretences us'd according to the temper of Times and Nations; but the thing muſt be done; and whether it be colour'd by a trick of Law, or perform'd by a Mute with a Bowſtring, imports little. *Henry* the fourth was made King by the Earl of *Northumberland*, and his brave Son *Hotſpur*; *Edward* the fourth by the valiant Earl of *Warwick*; *Henry* the ſeventh by *Stanley:* but neither of 'em could think himſelf ſafe, till his Benefactor was dead. No continu'd fidelity, no teſtimonys of modeſty and humility can prevent this. The modeſty of *Germanicus* in rejecting the Honors that were offer'd to him, and his induſtry in quieting the mutiny'd Legions, accelerated his ruin: When 'twas evident he might be Emperor if he pleas'd, he muſt be ſo, or die: There was no middle ſtati-

on between the Throne and the Grave. 'Tis probable that *Caligula*, *Nero*, and other Beaſts like to them, might hate Vertue for the good which is in it; but I cannot think that either they, their Predeceſſors or Succeſſors, would have put themſelves upon the deſperate deſign of extirpating it, if they had not found it to be inconſiſtent with their Government; and that being once concluded, they ſpar'd none of their neareſt Relations. *Artaxerxes* kill'd his Son *Darius*: *Herod* murder'd the beſt of his Wives, and all his Sons except the worſt. *Tiberius* deſtroy'd *Agrippa Poſtuhmus*, and *Germanicus* with his Wife and two Sons. How highly ſoever *Conſtantine* the Great be commended, he was polluted with the Blood of his Father-in-law, Wife, and Son. *Philip* the ſecond of *Spain* did in like manner deliver himſelf from his fears of *Don Carlos*; and 'tis not doubted that *Philip* the fourth, for the ſame reaſons, diſpatch'd his Brother *Don Carlos*, and his Son *Balthaſar*. The like caſes were ſo common in *England*, that all the *Plantagenets*, and the noble Familys ally'd to them, being extinguiſh'd, our Anceſtors were ſent to ſeek a King in one of the meaneſt in *Wales*. SECT. 24.

This method being known, thoſe who are unwilling to die ſo tamely, endeavour to find out ways of defending themſelves; and there being no other than the death of the Perſon who is in the Throne, they uſually ſeek to compaſs it by ſecret Conſpiracy, or open Violence; and the number of Princes that have bin deſtroy'd, and Countrys diſturb'd by thoſe who thro fear have bin driven to extremitys, is not much leſs than of thoſe who have ſuffer'd the like from men following the impulſe of their own Ambition.

The diſorders ariſing from Conteſts between ſeveral Competitors, before any one could be ſettled in the poſſeſſion of Kingdoms, have bin no leſs frequent and bloody than thoſe above-mention'd; and the miſerys ſuffer'd by them, together with the ruin brought upon the Empires of *Macedon* and *Rome*, may be ſufficient to prove it: however to make the matter more clear, I ſhall alledg others. But becauſe it may be preſumption in me to think I know all the Hiſtorys of the World, or tedious to relate all thoſe I know, I ſhall content my ſelf with ſome of the moſt eminent and remarkable: And if it appears they have all ſuffer'd the ſame miſchiefs, we may believe they proceed not from Accidents, but from the power of a permanent Cauſe, that always produces the ſame or the like Effects.

To begin with *France*. The Succeſſion not being well ſettled in the time of *Meroveus*, who had diſpoſſeſt the Grandchildren of *Pharamond*, he was no ſooner dead than *Gillon* ſet up himſelf, and with much ſlaughter drove his Son *Chilperic* out of the Kingdom; who after a little time returning with like fury, is ſaid to have ſeen a Viſion, firſt of Lions and Leopards, then of Bears and Wolves, and laſtly of Dogs and Cats, all tearing one another to pieces. This has bin always accounted by the *French* to be a repreſentation of the nature and fortune of the three Races that were to command them, and has bin too much verify'd by experience. *Clovis* their firſt Chriſtian and moſt renowned King, having by good means or evil exceedingly enlarg'd his Territorys, but chiefly by the murders of *Alaric*, and *Ragnacaire* with his Children, and ſuborning *Sigiſmond* of *Metz* to kill his Father *Sigebert*, left his Kingdom to be torn in pieces by the rage of his four Sons, each of 'em endeavouring to make himſelf Maſter of the whole; and when, according to the uſual fate of ſuch Conteſts, ſucceſs had crown'd *Clothair*, who was the worſt of 'em all,

Hiſt. de France en la Vie de Chilperic 1.

Mezeray & de Serres.

CHAP. II. all, by the ſlaughter of his Brothers and Nephews, with all the flower of the *French* and *Gauliſh* Nobility, the advantages of his Fortune only reſulted to his own perſon. For after his death the miſerable Nations ſuffer'd as much from the madneſs of his Sons, as they had done by himſelf and his Brothers. They had learn'd from their Predeceſſors not to be ſlow in doing miſchief, but were farther incited by the rage of two infamous Strumpets, *Fredegonde* and *Brunehaud*, which is a ſort of Vermin that, I am inclin'd to think, has not uſually govern'd Senats or Popular Aſſemblys. *Chilperic* the ſecond, who by the ſlaughter of many Perſons of the Royal Blood, with infinite numbers of the Nobility and People, came to be Maſter of ſo much of the Country as procur'd him the name of King of *France*, kill'd his eldeſt Son on ſuſpicion he was excited againſt him by *Brunehaud*, and his ſecond, leſt he ſhould revenge the death of his Brother: he marry'd *Fredegonde*, and was ſoon after kill'd by her Adulterer *Landry*. The Kingdom continu'd in the ſame miſery thro the rage of the ſurviving Princes, and found no relief, tho moſt of 'em fell by the Sword; and that *Brunehaud* who had bin a principal Cauſe of thoſe Tragedys, was ty'd to the tails of four wild Horſes, and ſuffer'd a death as foul as her life. Theſe were Lions and Leopards. They involv'd the Kingdom in deſperate troubles; but being Men of valor and induſtry, they kept up in ſome meaſure the Reputation and Power of the Nation, and he who attain'd to the Crown defended it. But they being fallen by the hands of each other, the poiſonous Root put forth another Plague more mortal than their Fury. The vigor was ſpent, and the Succeſſion becoming more ſettled, ten baſe and ſlothful Kings, by the *French* called *Les Roys faineans*, ſucceeded. Some may ſay, They who do nothing, do no hurt; but the Rule is falſe in relation to Kings. He that takes upon him the Government of a People, can do no greater evil than by doing nothing, nor be guilty of a more unpardonable Crime, than by Negligence, Cowardice, Voluptuouſneſs, and Sloth, to deſert his charge. Vertue and Manhood periſh under him; good Diſciplin is forgotten; Juſtice ſlighted; the Laws perverted or render'd uſeleſs; the People corrupted; the publick Treaſures exhauſted; and the Power of the Government always falling into the hands of Flatterers, Whores, Favorites, Bauds, and ſuch baſe Wretches as render it contemptible, a way is laid open for all manner of diſorders. The greateſt cruelty that has bin known in the world, if accompany'd with wit and courage, never did ſo much hurt as this ſlothful beſtiality; or rather theſe ſlothful Beaſts have ever bin moſt cruel. The Reigns of *Septimius Severus*, *Mahomet* the ſecond, or *Selim* the ſecond, were cruel and bloody; but their fury was turn'd againſt Foreigners, and ſome of their near Relations, or againſt ſuch as fell under the ſuſpicion of making attempts againſt them: The condition of the People was tolerable; thoſe who would be quiet might be ſafe; the Laws kept their right courſe; the Reputation of the Empire was maintain'd, the Limits defended, and the publick Peace preſerv'd. But when the Sword paſt into the hands of leud, ſlothful, fooliſh, and cowardly Princes, it was of no power againſt foreign Enemys, or the diſturbers of domeſtic Peace, tho always ſharp againſt the beſt of their own Subjects. No man knew how to ſecure himſelf againſt them, unleſs by raiſing civil Wars; which will always be frequent, when a Crown defended by a weak hand is propos'd as a Prize to any that dare invade it. This is a perpetual Spring of diſorders; and no Nation was ever quiet, when the moſt eminent men found leſs danger in the moſt violent Attempts, than in ſubmitting patiently to the

Will

Will of a Prince, that ſuffers his Power to be manag'd by vile Perſons, who get credit by flattering him in his Vices. But this is not all; ſuch Princes naturally hate and fear thoſe who excel them in Vertue and Reputation, as much as they are inferior to them in Fortune; and think their Perſons cannot be ſecur'd, nor their Authority enlarg'd, except by their deſtruction. 'Tis ordinary for them, *inter ſcorta & ganeas principibus viris perniciem machinare*, and to make Cruelty a cover to Ignorance and Cowardice. Beſides the Miſchiefs brought upon the Publick by the loſs of eminent Men, who are the Pillars of every State, ſuch Reigns are always accompany'd with Tumults and Civil Wars, the great Men ſtriving with no leſs violence who ſhall get the weak Prince into his power, when ſuch regard is had to ſucceſſion that they think it not fit to deveſt him of the Title, than when with leſs reſpect they contend for the Sovereignty it ſelf. And whilſt this ſort of Princes reign'd, *France* was not leſs afflicted with the Conteſts between *Grimbauld*, *Ebroin*, *Grimoald*, and others, for the Mayoralty of the Palace, than they had bin before by the rage of thoſe Princes who had conteſted for the Crown. The Iſſue alſo was the ſame: After many Revolutions, *Charles Martel* gain'd the Power of the Kingdom, which he had ſo bravely defended againſt the *Saracens*; and having tranſmitted it to his Son *Pepin*, the General Aſſembly of Eſtates, with the approbation of Mankind, confer'd the Title alſo upon him. This gave the Nation eaſe for the preſent; but the deep-rooted Evil could not be ſo cur'd; and the Kingdom, that by the Wiſdom, Valor, and Reputation of *Pepin*, had bin preſerv'd from civil Troubles during his life, fell as deeply as ever into them ſo ſoon as he was dead. His Sons, *Carloman* and *Charles*, divided the Dominions, but in a little time each of them would have all. *Carloman* fill'd the Kingdom with Tumult; rais'd the *Lombards*, and march'd with a great Army againſt his Brother, till his courſe was interrupted by death, caus'd, as is ſuppos'd, by ſuch helps as Princes liberally afford to their aſpiring Relations. *Charles* depriv'd his two Sons of their Inheritance, put them in Priſon, and we hear no more of them. His third Brother *Griffon* was not more quiet, nor more ſucceſsful; and there could be no Peace in *Gaſcony*, *Italy*, or *Germany*, till he was kill'd. But all the Advantages which *Charles*, by an extraordinary Vertue and Fortune, had purchas'd for his Country, ended with his Life. He left his Son *Lewis* the *Gentle* in poſſeſſion of the Empire, and Kingdom of *France*, and his Grandſon *Bernard* King of *Italy*: But theſe two could not agree, and *Bernard* falling into the hands of *Lewis*, was depriv'd of his Eyes, and ſome time after kill'd. This was not enough to preſerve the Peace: *Lothair*, *Lewis* and *Pepin*, all three Sons to *Lewis*, rebel'd againſt him; call'd a Council at *Lions*, depos'd him, and divided the Empire amongſt themſelves. After five years he eſcap'd from the Monaſtery where he had bin kept, renew'd the War, and was again taken Priſoner by *Lothair*. When he was dead, the War broke out more fiercely than ever between his Children: *Lothair* the Emperor aſſaulted *Lewis* King of *Bavaria* and *Charles* King of *Rhetia*; was defeated by them, and confin'd to a Monaſtery, where he dy'd. New Quarrels aroſe between the two Brothers, upon the diviſion of the Countrys taken from him, and *Lorrain* only was left to his Son. *Lewis* dy'd ſoon after, and *Charles* getting poſſeſſion of the Empire and Kingdom, ended an inglorious Reign in an unproſperous attempt to deprive *Hermingrade*, Daughter to his Brother *Lewis*, of the Kingdom of *Arles*, and other places left to her by her Father.

SECT. 24.

C. Tacit.

CHAP. II.

ther. *Lewis* his Son, call'd the *Stutterer*, reign'd two years in much trouble; and his only legitimate Son, *Charles* the *Simple*, came not to the Crown till after the death of his two Baſtard Brothers, *Lewis* and *Carloman*, *Charles le Gros*, and *Eudes* Duke of *Anjou*. *Charles le Gros* was depos'd from the Empire and Kingdom, ſtrip'd of his Goods, and left to periſh thro poverty in an obſcure Village. *Charles* the *Simple*, and the Nations under him, thriv'd no better: *Robert* Duke of *Anjou* rais'd War againſt him, and was crown'd at *Rheims*; but was himſelf ſlain ſoon after in a bloody battel near *Soiſſons*. His Son-in-law, *Hebert* Earl of *Vermandois*, gather'd up the remains of his ſcatter'd Party, got *Charles* into his power, and call'd a General Aſſembly of Eſtates, who depos'd him, and gave the Crown to *Raoul* Duke of *Burgundy*; tho he was no otherwiſe related to the Royal Blood than by his Mother, which in *France* is nothing at all. He being dead, *Lewis* Son to the depos'd *Charles* was made King; but his Reign was as inglorious to him, as miſerable to his Subjects. This is the Peace which the *French* enjoy'd for the ſpace of five or ſix Ages under their Monarchy; and 'tis hard to determin whether they ſuffer'd moſt by the Violence of thoſe who poſſeſt, or the Ambition of others who aſpir'd to the Crown; and whether the fury of active, or the baſeneſs of ſlothful Princes was moſt pernicious to them: But upon the whole matter, thro the defects of thoſe of the latter ſort, they loſt all they had gain'd by ſweat and blood under the conduct of the former. *Henry* and *Otho* of *Saxony*, by a Vertue like that of *Charlemagne*, depriv'd them of the Empire, and ſettled it in *Germany*, leaving *France* only to *Lewis* ſirnam'd *Outremer*, and his Son *Lothair*. Theſe ſeem'd to be equally compos'd of Treachery, Cruelty, Ambition, and Baſeneſs: They were always mutinous, and always beaten: Their frantick Paſſions put 'em always upon unjuſt deſigns, and were ſuch plagues to their Subjects and Neighbours, that they became equally deteſted and deſpis'd. Theſe things extinguiſh'd the veneration due to the memory of *Pepin* and *Charles*; and oblig'd the whole Nation rather to ſeek relief from a Stranger, than to be ruin'd by their worthleſs Deſcendents. They had try'd all ways that were in their power, depos'd four crowned Kings within the ſpace of a hundred and fifty years; crown'd five who had no other Title than the People confer'd upon them, and reſtor'd the Deſcendents of thoſe they had rejected, but all was in vain: Their Vices were incorrigible, the Miſchiefs produc'd by them intolerable; they never ceas'd from murdering one another in battel, or by treachery, and bringing the Nation into Civil Wars upon their wicked or fooliſh Quarrels, till the whole Race was rejected, and the Crown plac'd upon the head of *Hugh Capet*. Theſe Miſchiefs rag'd not in the ſame extremity under him and his Deſcendents, but the abatement proceeded from a cauſe no way advantageous to Abſolute Monarchy. The *French* were by their Calamitys taught more ſtrictly to limit the Regal Power; and by turning the Dukedoms and Earldoms into Patrimonys, which had bin Offices, gave an Authority to the chief of the Nobility, by which that of Kings was curb'd; and tho by this means the Commonalty were expos'd to ſome Preſſures, yet they were ſmall in compariſon of what they had ſuffer'd in former times. When many great Men had Eſtates of their own that did not depend upon the Will of Kings, they grew to love their Country; and tho they chearfully ſerv'd the Crown in all caſes of publick Concernment, they were not eaſily engag'd in the perſonal quarrels of thoſe who poſſeſt it, or had a mind to gain it. To preſerve themſelves

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in this condition, they were oblig'd to uſe their Vaſſals gently; and this continuing in ſome meaſure till within the laſt fifty years, the Monarchy was leſs tumultuous, than when the King's Will had bin leſs reſtrain'd. Nevertheleſs they had not much reaſon to boaſt; there was a Root ſtill remaining, that from time to time produc'd poiſonous Fruit: Civil Wars were frequent among them, tho not carry'd on with ſuch deſperate madneſs as formerly; and many of them upon the account of diſputes between Competitors for the Crown. All the Wars with *England*, ſince *Edward* the Second marry'd *Iſabella* Daughter, and, as he pretended, Heir of *Philip Le Bel*, were of this nature. The defeats of *Crecy*, *Poitiers*, and *Agincourt*, with the ſlaughters and devaſtations ſuffer'd from *Edward* the Third, the black Prince, and *Henry* the Fifth, were merely upon Conteſts for the Crown. The Factions of *Orleans* and *Burgundy*, *Orleans* and *Armagnac*, proceeded from the ſame Spring; and the Murders that ſeem to have bin the immediate cauſes of thoſe Quarrels, were only the effects of the hatred growing from their competition. The more odious, tho leſs bloody Conteſts between *Lewis* the *11th*, and his Father *Charles* the *7th*, with the jealouſy of the former againſt his Son *Charles* the *8th*, aroſe from the ſame Principle. *Charles* of *Bourbon* prepar'd to fill *France* with Fire and Blood upon the like quarrel, when his Deſigns were overthrown by his death in the aſſault of *Rome*. If the Dukes of *Guiſe* had bin more fortunate, they had ſoon turn'd the cauſe of Religion into a claim to the Crown, and repair'd the Injury done, as they pretended, to *Pepin*'s Race, by deſtroying that of *Capet*: And *Henry* the Third thinking to prevent this by the ſlaughter of *Henry le Balafré*, and his Brother the Cardinal *de Guiſe*, brought ruin upon himſelf, and caſt the Kingdom into a moſt horrid confuſion. Our own Age furniſhes us with more than one attempt of the ſame kind, attended with the like ſucceſs. The Duke of *Orleans* was ſeveral times in arms againſt *Lewis* the *13th* his Brother; the Queen-mother drew the *Spaniards* to favour him; *Montmorency* periſh'd in his Quarrel; *Fontrailles* reviv'd it by a Treaty with *Spain*, which ſtruck at the King's head as well as the Cardinal's, and was ſuppreſt by the death of *Cinq Mars* and *de Thou*. Thoſe who underſtand the Affairs of that Kingdom, make no doubt that the Count *de Soiſſons* would have ſet up for himſelf, and bin follow'd by the beſt part of *France*, if he had not bin kill'd in the purſuit of his Victory at the Battel of *Sedan*. Since that time the Kingdom has ſuffer'd ſuch Diſturbances as ſhow, that more was intended than the removal of *Mazarin*: And the *Marechal de Turenne* was often told, that the check he gave to the Prince of *Condé* at *Gien*, after he had defeated *Hocquincourt*, had preſerv'd the Crown upon the King's Head. And to teſtify the Stability, good Order, and domeſtick Peace that accompanys Abſolute Monarchy, we have in our own days ſeen the Houſe of *Bourbon* often divided within it ſelf; the Duke of *Orleans*, the Count *de Soiſſons*, and the Princes of *Condé* and *Conti* in war againſt the King; the Dukes of *Angouleſme*, *Vendome*, *Longueville*, the Count *de Moret*, and other Baſtards of the Royal Family, following their example; the Houſes of *Guiſe*, *D' Elbeuf*, *Bouillon*, *Nemours*, *Rochefocault*, and almoſt all the moſt eminent in *France*, with the Parliaments of *Paris*, *Bourdeaux*, and ſome others, joining with them. I might alledg many more Examples, to ſhew that this Monarchy, as well as all others, has from the firſt eſtabliſhment bin full of blood and ſlaughter, thro the violence of thoſe who poſſeſt the Crown, and the Ambition of ſuch as aſpir'd to it; and that the end of one Civil War has bin the beginning

SECT. 24.

of

CHAP. II.

of another: But I preſume upon the whole, theſe will be thought ſufficient to prove, that it never enjoy'd any permanent Domeſtick Quiet.

The Kingdoms of *Spain* have bin no leſs diſturb'd by the ſame means; but eſpecially that of *Caſtile*, where the Kings had more power than in other places. To cite all the Examples, were to tranſcribe their Hiſtorys; but whoever has leiſure to examin them will find, that after many troubles, *Alphonſo* the Second, notwithſtanding his glorious firname of *Wiſe*, was depos'd by means of his ambitious Son: *Don Alonſo*, firnam'd *El Deſheredado*, ſupplanted by his Uncle *Don Sancho el bravo: Peter* the Cruel caſt from the Throne, and kill'd by his baſtard Brother the *Conde de Traſtamara*. From the time of the above-nam'd *Alphonſo* to that of *Ferdinand* and *Iſabella*, containing about two hundred years, ſo few of them paſt without Civil Wars, that I hardly remember two together that were free from them: And whoſoever pretends that of late years that Monarchy has bin more quiet, muſt, if he be ingenuous, confeſs their Peace is rather to be imputed to the dexterity of removing ſuch Perſons as have bin moſt likely to raiſe Diſturbances (of which number were *Don John* of *Auſtria*, *Don Carlos* Son to *Philip* the Second, another of the ſame name Son to *Philip* the Third, and *Don Belthazar* Son to *Philip* the Fourth) than to the rectitude of their Conſtitutions.

He that is not convinc'd of theſe Truths by what has bin ſaid, may come nearer home, and ſee what Miſchiefs were brought upon *Scotland* by the Conteſts between *Baliol* and *Bruce*, with their Conſequences, till the Crown came to the *Stuart* Family; the quiet Reigns and happy Deaths of the five *James*'s, together with the admirable Stability and Peace of the Government under Queen *Mary*, and the perfect Union in which ſhe liv'd with her Husband, Son and People, as well as the Happineſs of the Nation whilſt it laſted.

Buchan. de reb. Scot.

Drummond.

Melvil.

But the Miſerys of *England*, upon the like occaſions, ſurpaſs all. *William* the *Norman* was no ſooner dead, but the Nation was rent in pieces by his eldeſt Son *Robert*, conteſting with his younger Sons *William* and *Henry* for the Crown. They being all dead and their Sons, the like happen'd between *Stephen* and *Maud*: *Henry* the Second was made King to terminate all Diſputes, but it prov'd a fruitleſs Expedient: Such as were more ſcandalous, and not leſs dangerous, did ſoon ariſe between him and his Sons; who beſides the Evils brought upon the Nation, vex'd him to death by their Rebellion. The Reigns of *John* and *Henry* the Third were yet more tempeſtuous. *Edward* the Second's leud, fooliſh, infamous and deteſtable Government, ended in his depoſition and death, to which he was brought by his Wife and Son. *Edward* the Third employ'd his own and his Subjects Valor againſt the *French* and *Scots*; but whilſt the Foundations were out of order, the Nation could never receive any advantage by their Victorys: All was calculated for the Glory, and turn'd to the Advantage of one Man. He being dead, all that the *Engliſh* held in *Scotland* and in *France*, was loſt thro the baſeneſs of his Succeſſor, with more Blood than it had bin gain'd; and the Civil Wars rais'd by his wickedneſs and madneſs, ended as thoſe of *Edward* the Second had done. The Peace of *Henry* the Fourth's Reign was interrupted by dangerous Civil Wars; and the Victory obtain'd at *Shrewsbury* had not perhaps ſecur'd him in the Throne, if his Death had not prevented new Troubles. *Henry* the Fifth acquir'd ſuch reputation by his

Vertue and Victorys, that none dar'd to invade the Crown during his life; but immediately after his death the Storms prepar'd againſt his Family, broke out with the utmoſt violence. His Son's weakneſs encourag'd *Richard* Duke of *York* to ſet up a new Title, which produc'd ſuch Miſchiefs as hardly any People have ſuffer'd, unleſs upon the like occaſion: For beſides the ſlaughter of many thouſands of the People, and eſpecially of thoſe who had bin accuſtom'd to Arms, the devaſtation of the beſt parts of the Kingdom, and the loſs of all that our Kings had inherited in *France*, or gain'd by the blood of their Subjects, fourſcore Princes of the Blood, as *Philip de Commines* calls them, dy'd in Battel, or under the hand of the Hangman. Many of the moſt noble Familys were extinguiſh'd; others loſt their moſt eminent Men. Three Kings and two preſumptive Heirs of the Crown were murder'd, and the Nation brought to that ſhameful exigence, to ſet up a young Man to reign over them, who had no better cover for his ſordid extraction than a Welch Pedegree, that might ſhew how a Tailor was deſcended from Prince *Arthur*, *Cadwallader* and *Brutus*. But the Wounds of the Nation were not to be heal'd with ſuch a Plaiſter. He could not rely upon a Title made up of ſuch ſtuff, and patch'd with a Marriage to a Princeſs of a very queſtionable Birth. His own meanneſs inclin'd him to hate the Nobility; and thinking it to be as eaſy for them to take the Crown from him, as to give it to him, he induſtriouſly apply'd himſelf to glean up the Remainders of the Houſe of *York*, from whence a Competitor might ariſe, and by all means to cruſh thoſe who were moſt able to oppoſe him. This exceedingly weaken'd the Nobility, who held the Balance between him and the Commons, and was a great ſtep towards the diſſolution of our antient Government: but he was ſo far from ſettling the Kingdom in peace, that ſuch Raſcals as *Perkin Warbeck* and *Simnel* were able to diſturb it. The Reign of *Henry* the Eighth was turbulent and bloody; that of *Mary* furious, and ſuch as had brought us into ſubjection to the moſt powerful, proud and cruel Nation at that time in the World, if God had not wonderfully protected us. Nay, *Edward* the Sixth, and Queen *Elizabeth*, notwithſtanding the natural excellency of their Diſpoſitions, and their knowledg of the Truth in matters of Religion, were forc'd, by that which men call *Jealouſy of State*, to foul their hands ſo often with illuſtrious Blood, that if their Reigns deſerve to be accounted amongſt the moſt gentle of Monarchys, they were more heavy than the Government of any Commonwealth; and yet their Lives were never ſecure againſt ſuch as conſpir'd againſt them upon the account of Title.

SECT. 24.

Having in ſome meaſure ſhew'd what Miſerys have bin uſually, if not perpetually brought upon Nations ſubject to Monarchys by the violence of ſome Princes, and the baſeneſs, folly, and cowardice of others, together with what they have ſuffer'd in Conteſts for the ſeveral Crowns, whilſt men divided into divers Factions, ſtrive with as much vehemency to advance the Perſon they favour, as if they or their Country were intereſted in the quarrel; and fight as fiercely for a Maſter as they might reaſonably do to have none; I am not able to determin which of the two Evils is the moſt mortal. 'Tis evident the Vices of Princes reſult to the Damage of the People; but whether Pride and Cruelty, or Stupidity and Sloth be the worſt, I cannot tell. All Monarchys are ſubject to be afflicted with Civil Wars: but whether the moſt frequent and bloody do ariſe from the quarrels of divers Competitors for Crowns before any one

CHAP. II. gain the poſſeſſion of them, or afterwards thro the fears of him that would keep what he has gain'd, or the rage of thoſe who would wreſt it from him, is not ſo eaſily decided. But Commonwealths are leſs troubled with thoſe Diſtempers. Women, Children, or ſuch as are notoriouſly fooliſh or mad, are never advanc'd to the Supreme Power. Whilſt the Laws, and that Diſciplin which nouriſhes Vertue is in force, Men of Wiſdom and Valor are never wanting; and every man deſires to give teſtimony of his Vertue, when he knows 'twill be rewarded with Honor and Power. If unworthy Perſons creep into Magiſtracys, or are by miſtake any way prefer'd, their Vices for the moſt part turn to their own hurt; and the State cannot eaſily receive any great damage by the incapacity of one who is not to continue in Office above a year; and is uſually encompaſt with thoſe who having born, or are aſpiring to the ſame, are by their Vertue able to ſupply his defects; cannot hope for a Reward from one unable to corrupt 'em, and are ſure of the favor of the Senat and People to ſupport 'em in the defence of the publick Intereſt. As long as this good Order continues, private Quarrels are ſuppreſt by the Authority of the Magiſtrate, or prove to be of little effect. Such as ariſe between the Nobles and Commons frequently produce good Laws for the maintenance of Liberty, as they did in *Rome* for above three hundred years after the expulſion of *Tarquin*; and almoſt ever terminate with little or no blood. Sometimes the Errors of one or both Partys are diſcover'd by the diſcourſe of a wiſe and good Man; and thoſe who have moſt violently oppos'd one another become the beſt Friends, every one joining to remove the evil that cauſes the diviſion. When the Senat and People of *Rome* ſeem'd to be moſt furiouſly incens'd againſt each other, the creation of Tribuns, communication of Honors and Marriages between the Patrician and Plebeian Familys, or the mitigation of Uſury, compos'd all; and theſe were not only harmleſs things, but ſuch as gave opportunitys of correcting the defects that had bin in the firſt Conſtitution of the Government, without which they could never have attain'd to the Greatneſs, Glory and Happineſs they afterwards enjoy'd. Such as had ſeen that People meeting in tumult, running thro the City, crying out againſt the Kings, Conſuls, Senat, or *Decemviri*, might have thought they would have fill'd all with blood and ſlaughter; but no ſuch thing happen'd. They deſir'd no more than to take away the Kingdom which *Tarquin* had wickedly uſurp'd; and never went about ſo much as to puniſh one Miniſter of the miſchiefs he had done, or to take away his Goods, till upon pretence of treating, his Embaſſadors by a new Treachery had caſt the City into greater danger than ever. Tho the *Decemviri* had by the like Villanys equally provok'd the People, they were us'd with the like gentleneſs: *Appius Claudius* and *Oppius* having by voluntary death ſubſtracted themſelves from publick puniſhment, their Collegues were only baniſh'd, and the Magiſtracys of the City reduc'd to the former order, without the effuſion of more blood. They who contended for their juſt Rights, were ſatiſfy'd with the recovery of them; whereas ſuch as follow the impulſe of an unruly Ambition, never think themſelves ſafe till they have deſtroy'd all that ſeem able to diſturb them, and ſatiated their rage with the blood of their Adverſarys. This makes, as well as ſhews the difference between the Tumults of *Rome*, or the ſeceſſion of the common People to Mount *Aventine*, and the Battels of *Towton*, *Teuxbury*, *Eveſhal*, *Lewes*, *Hexham*, *Barnet*, *St. Albans*, and *Boſworth*. 'Tis in vain to ſay theſe ought rather to be compar'd to thoſe of *Pharſalia*, *Actium*, or *Philippi*;

T. Liv. l. 3.

for

for when the Laws of a Commonwealth are aboliſh'd, the Name alſo ceaſes. Whatever is done by force or fraud to ſet up the Intereſts and Luſts of one man in oppoſition to the Laws of his Country, is purely and abſolutely Monarchical. Whatſoever paſt between *Marius*, *Sylla*, *Cinna*, *Catiline*, *Cæſar*, *Pompey*, *Craſſus*, *Auguſtus*, *Antonius*, and *Lepidus*, is to be imputed to the Conteſts that ariſe between Competitors for Monarchy, as well as thoſe that in the next age happen'd between *Galba*, *Otho*, *Vitellius*, and *Veſpaſian*: Or, which is worſe, whereas all men in Commonwealths fight for themſelves when there is occaſion, and if they ſucceed, enjoy the fruits of their Victory, ſo as even thoſe who remain of the vanquiſh'd party, partake of the Liberty thereby eſtabliſh'd, or the good Laws thereupon made; ſuch as follow'd the Enſigns of thoſe men who ſought to ſet up themſelves, did, rather like beaſts than men, hazard and ſuffer many unſpeakable evils to purchaſe miſery to themſelves and their Poſterity, and to make one their Maſter, who increaſing in Pride, Avarice, and Cruelty, was to be thrown down again with as much Blood as he had bin ſet up. SECT. 25.

Theſe things, if I miſtake not, being in the laſt degree evident, I may leave to our Author all the advantages he can gain by his rhetorical Deſcription of the Tumults of *Rome, when Blood was in the Market-place ſuckt up with Sponges, and the Jakes ſtuff'd with Carcaſes*; to which he may add the crimes of *Sylla*'s Life, and the miſerys of his Death: But withal I deſire to know what number of Sponges were ſufficient to ſuck up the Blood of five hundred thouſand men ſlain in one day, when the Houſes of *David* and *Jeroboam* contended for the Crown of *Iſrael*, or of four hundred thouſand who fell in one battel between *Joaſh* and *Amaziah* on the ſame occaſion; what Jakes were capacious enough to contain the Carcaſes of thoſe that periſh'd in the quarrels between the Succeſſors of *Alexander*, the ſeveral Competiors for the *Roman* Empire; or thoſe which happen'd in *France*, *Spain*, *England*, and other places upon the like occaſions. If *Sylla* for ſome time acted as an abſolute Monarch, 'tis no wonder that he dy'd like one, or that God puniſh'd him as *Herod*, *Philip* the ſecond of *Spain*, and ſome others, becauſe the hand of his fellow-Citizens had unjuſtly ſpar'd him. If when he was become deteſtable to God and Man, he became alſo miſerable, his example ought to deter others from the Crimes that are aveng'd by a Power which none can eſcape, and to encourage thoſe who defend, or endeavour to recover their violated Libertys, to act vigorouſly in a Cauſe that God dos evidently patronize.

SECT. XXV.

Courts are more ſubject to Venality and Corruption than Popular Governments.

THO Court-flatterers impute many evils to Popular Governments they no way deſerve, I could not think any ſo impudent as to lay Corruption and Venality to their charge, till I found it in our Author. They might in my opinion have taken thoſe faults upon themſelves, ſince they certainly abound moſt where Bawds, Whores, Buffoons, Players, Slaves, and other baſe people who are naturally mercenary, are moſt

CHAP. II.

prevalent. And whoſoever would know whether this dos more frequently befal Commonwealths than Monarchys, eſpecially if they are abſolute, need only to inquire whether the *Cornelii*, *Junii*, *Fabii*, *Valerii*, *Quintii*, *Curii*, *Fabritii*, and others who moſt prevail'd in *Rome* after the expulſion of the Kings, or *Sejanus*, *Macro*, *Narciſſus*, *Pallas*, *Icetus*, *Tigellinus*, *Vinnius*, *Laco*, *Agrippina*, *Meſſalina*, *Lollia*, *Poppæa*, and the like, were moſt ſubject to thoſe baſe Vices: Whether it were more eaſy to corrupt one or two of thoſe Villains and Strumpets, or the Senats and People of *Rome*, *Carthage*, *Athens*, and *Sparta*; and whether that ſort of Rabble had more power over the Princes they ſerv'd, than ſuch as moſt reſembled them had whilſt the Popular Government continu'd. 'Tis in vain to ſay thoſe Princes were wicked and vile, for many others are ſo likewiſe; and when the Power is in the hands of one man, there can be no aſſurance he will not be like them. Nay, when the Power is ſo plac'd, ill men will always find opportunitys of compaſſing their deſires: *Bonus, cautus, optimus Imperator venditur*, ſaid *Diocleſian*; and tho he was no unwiſe man, yet that which principally induc'd him to renounce the Empire, was the impoſſibility he found of defending himſelf againſt thoſe that were in credit with him, who daily betray'd and ſold him. They ſee with the eyes of other men, and cannot reſiſt the frauds that are perpetually put upon them. *Antoninus Pius* and *Marcus Aurelius* ſeem to have bin the beſt and wiſeſt of all the *Roman* Emperors; but the two *Fauſtina*'s had ſuch an aſcendent over them, as was moſt ſhameful to their perſons, and miſchievous to the Empire and the beſt men in it. Such as theſe may gain too much upon the affections of one man in the beſt regulated Government; but that could be of no great danger to the Publick, when many others equal, or not much inferior to him in authority, are ready to oppoſe whatever he ſhould endeavour to promote by their impulſe: but there is no remedy when all depends upon the Will of a ſingle perſon who is govern'd by them. There was more of acuteneſs and jeſt, than of truth in that ſaying of *Themiſtocles*, *That his little boy had more power than any man in* Greece; *for he govern'd his Mother, ſhe him, he* Athens, *and* Athens Greece. For he himſelf was found to have little power, when for private paſſions and concernments he departed from the intereſt of the Publick; and the like has bin found in all places that have bin govern'd in the like manner.

Again; Corruption will always reign moſt, where thoſe who have the power do moſt favour it, where the rewards of ſuch Crimes are greateſt, eaſieſt and moſt valu'd, and where the puniſhment of them is leaſt fear'd.

1. For the firſt, we have already prov'd that Liberty cannot be preſerv'd, if the manners of the People are corrupted, nor abſolute Monarchy introduc'd where they are ſincere; which is ſufficient to ſhew that thoſe who manage free Governments ought always to the utmoſt of their power to oppoſe Corruption, becauſe otherwiſe both they and their Government muſt inevitably periſh; and that on the other hand, the abſolute Monarch muſt endeavour to introduce it, becauſe he cannot ſubſiſt without it. 'Tis alſo ſo natural for all ſuch Monarchs to place men in power who pretend to love their Perſons, and will depend upon their pleaſure, that poſſibly 'twould be hard to find one in the world who has not made it the rule of his Government: And this is not only the way to corruption, but the moſt dangerous of all. For tho a good man may love a good Monarch, he will obey him only when he commands that which

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is juſt; and no one can engage himſelf blindly to do whatever he is commanded, without renouncing all Vertue and Religion; becauſe he knows not whether that which ſhall be commanded is conſiſtent with either, or directly contrary to the Laws of God and Man. But if ſuch a Monarch be evil, and his Actions ſuch as they are too often found to be, whoever bears an affection to him, and ſeconds his deſigns, declares himſelf an Enemy to all that is good; and the advancement of ſuch men to power dos not only introduce, foment, and increaſe Corruption, but fortifys it in ſuch a manner, that without an intire renovation of that State, it cannot be remov'd. Ill men may poſſibly creep into any Government; but when the worſt are plac'd neareſt to the Throne, and rais'd to Honors for being ſo, they will with that force endeavour to draw all men to a conformity of Spirit with themſelves, that it can no otherwiſe be prevented, than by deſtroying them and the Principle in which they live. SECT. 25.

2. To the ſecond; Man naturally follows that which is good, or ſeems to him to be ſo. Hence it is that in well-govern'd States, where a value is put upon Vertue, and no one honor'd unleſs for ſuch Qualitys as are beneficial to the Publick, men are from the tendereſt years brought up in a belief, that nothing in this world deſerves to be ſought after, but ſuch Honors as are acquir'd by vertuous Actions: By this means Vertue it ſelf becomes popular, as in *Sparta*, *Rome*, and other places, where Riches (which with the Vanity that follows them, and the Honors men give to them, are the root of all evil) were either totally baniſh'd, or little regarded. When no other advantage attended the greateſt Riches than the opportunity of living more ſumptuouſly or deliciouſly, men of great Spirits ſlighted them. When *Ariſtippus* told *Cleanthes*, that if he would go to Court and flatter the Tyrant, he need not ſeek his Supper under a hedg; the Philoſopher anſwer'd, that he who could content himſelf with ſuch a Supper, neednot go to Court, or flatter the Tyrant. *Epaminondas*, *Ariſtides*, *Phocion*, and even the *Lacedemonian* Kings, found no inconvenience in Poverty, whilſt their Vertue was honor'd, and the richeſt Princes in the world fear'd their Valor and Power. It was not difficult for *Curius*, *Fabricius*, *Cincinnatus*, or *Emilius Paulus*, to content themſelves with the narroweſt Fortune, when it was no obſtacle to them in the purſuit of thoſe Honors which their Vertues deſerv'd. 'Twas in vain to think of bribing a man who ſup'd upon the Coleworts of his own Garden. He could not be gain'd by Gold, who did not think it neceſſary. He that could riſe from the Plow to the triumphal Chariot, and contentedly return thither again, could not be corrupted; and he that left the ſenſe of his Poverty to his Executors, who found not wherewith to bury him, might leave *Macedon* and *Greece* to the pillage of his Soldiers, without taking to himſelf any part of the Booty. But when Luxury was brought into faſhion, and they came to be honor'd who liv'd magnificently, tho they had in themſelves no qualitys to diſtinguiſh them from the baſeſt of Slaves, the moſt vertuous men were expos'd to ſcorn if they were poor: and that poverty which had bin the mother and nurſe of their Vertue, grew inſupportable. The Poet well underſtood what effect this change had upon the World, who ſaid,

Nullum crimen abeſt facinuſque libidinis, ex quo
Paupertas Romana perit. Juven.

CHAP. II. When Riches grew to be neceſſary, the deſire of them, which is the ſpring of all miſchief, follow'd. They who could not obtain Honors by the nobleſt Actions, were oblig'd to get Wealth, or purchaſe them from Whores and Villains, who expos'd them to ſale: and when they were once enter'd into this track, they ſoon learn'd the Vices of thoſe from whom they had receiv'd their Preferment, and to delight in the ways that had brought them to it. When they were come to this, nothing could ſtop them: All thought and remembrance of good was extinguiſh'd. They who had bought the Commands of Armys or Provinces, from *Icetus* or *Narciſſus*, ſought only how to draw Mony from them, to enable them to purchaſe higher Dignitys, or gain a more aſſur'd protection from thoſe Patrons. This brought the Government of the World under a moſt infamous Traffick; and the Treaſures ariſing from it were, for the moſt part, diſſipated by worſe vices, than the Rapine, Violence and Fraud with which they had bin gotten. The Authors of thoſe Crimes had nothing left but their Crimes, and the neceſſity of committing more, thro the indigence into which they were plung'd by the extravagance of their Expences. Theſe things are inſeparable from the life of a Courtier: for as ſervile Natures are guided rather by ſenſe than reaſon, ſuch as addict themſelves to the ſervice of Courts, find no other conſolation in their miſery, than what they receive from ſenſual pleaſures, or ſuch vanitys as they put a value upon; and have no other care, than to get Mony for their ſupply by begging, ſtealing, bribing, and other infamous practices. Their Offices are more or leſs eſteem'd according to the opportunitys they afford for the exerciſe of theſe Vertues; and no man ſeeks them for any other end than for gain, nor takes any other way than that which conduces to it. The uſual means of attaining them are, by obſerving the Prince's Humor, flattering his Vices, ſerving him in his Pleaſures, fomenting his Paſſions, and by advancing his worſt Deſigns, to create an opinion in him that they love his perſon, and are intirely addicted to his Will. When Valor, Induſtry and Wiſdom advanc'd men to Offices, it was no eaſy matter for a man to perſuade the Senat he had ſuch Qualitys as were requir'd, if he had them not: But when Princes ſeek only ſuch as love them, and will do what they command, 'tis eaſy to impoſe upon them; and becauſe none that are good will obey them when they command that which is not ſo, they are always encompaſt by the worſt. Thoſe who follow them only for Reward, are moſt liberal in profeſſing affection to them, and by that means riſe to places of Authority and Power. The Fountain being thus corrupted, nothing that is pure can come from it. Theſe mercenary Wretches having the management of Affairs, Juſtice and Honors are ſet at a price, and the moſt lucrative Traffick in the world is thereby eſtabliſh'd. * *Eutropius* when he was a Slave, us'd to pick Pockets and Locks; but being made a Miniſter, he ſold Citys, Armys and Provinces: and ſome have undertaken to give probable reaſons to believe, that *Pallas*, one of *Claudius*'s manumis'd Slaves, by theſe means brought together more Wealth in ſix years, than all the Roman Dictators and Conſuls had done from the expulſion of the Kings to their paſſage into *Aſia*. The reſt walk'd in the ſame way, us'd the ſame arts, and many of them ſucceeded in the ſame manner. Their Riches conſiſted not of Spoils taken from Enemys, but were the baſe product of their own corruption. They valu'd nothing but Mony, and

*——— Nunc uberiore rapina
Peccat in orbe manus. *Claud.*

thoſe

thoſe who could bribe them, were ſure to be advanc'd to the higheſt Offices; and whatever they did, fear'd no puniſhment. Like Effects will ever proceed from the like Cauſes. When Vanity, Luxury and Prodigality are in faſhion, the deſire of Riches muſt neceſſarily increaſe in proportion to them: And when the Power is in the hands of baſe mercenary perſons, they will always (to uſe the Courtiers phraſe) make as much profit of their places as they can. Not only matters of Favor, but of Juſtice too, will be expos'd to ſale; and no way will be open to Honors or Magiſtracys,but by paying largely for them. He that gets an Office by theſe means, will not execute it *gratis:* he thinks he may ſell what he has bought; and would not have enter'd by corrupt ways, if he had not intended to deal corruptly. Nay, if a well-meaning man ſhould ſuffer himſelf to be ſo far carry'd away by the ſtream of a prevailing Cuſtom, as to purchaſe Honors of ſuch Villains, he would be oblig'd to continue in the ſame courſe, that he might gain Riches to procure the continuance of his Benefactors protection, or to obtain the favor of ſuch as happen to ſucceed them: And the corruption thus beginning in the Head, muſt neceſſarily diffuſe it ſelf into all the Members of the Commonwealth. Or, if any one (which is not to be expected) after having bin guilty of one Villany, ſhould reſolve to commit no more, it could have no other effect than to bring him to ruin; and he being taken away, all things would return to their former channel. SECT. 25.

Beſides this, whoſoever deſires to advance himſelf, muſt uſe ſuch means as are ſutable to the time in which he lives, and the humor of the perſons with whom he is to deal. It had bin as abſurd for any man void of merit to ſet himſelf up againſt *Junius Brutus*, *Cincinnatus*, *Papirius Curſor*, *Camillus*, *Fabius Maximus*, or *Scipio*; and by bribing the Senat and People of *Rome*, think to be choſen Captain againſt the *Tarquins*, *Tuſcans*, *Latins*, *Samnites*, *Gauls* or *Carthaginians*, as for the moſt vertuous men by the moſt certain proofs of their Wiſdom, Experience, Integrity and Valor, to expect advancement from *Caligula*, *Claudius*, and *Nero*, or the leud Wretches that govern'd them. They hated and fear'd all thoſe that excel'd in Vertue, and ſetting themſelves to deſtroy the beſt for being the beſt, they plac'd the ſtrength of the Government in the hands of the worſt, which produc'd the effects beforemention'd. This ſeems to have bin ſo well known, that no man pretended to be great at Court, but thoſe who had caſt off all thoughts of honor and common honeſty: *Revertar cum Leno*, *Meretrix*, *Scurra*, *Cinædus ero*, ſaid one who ſaw what manners prevail'd there; and whereſoever they do prevail, ſuch as will riſe, muſt render themſelves conformable in all corruption and venality. And it may be obſerv'd, that a noble Perſon now living amongſt us, who is a great enemy to Bribery, was turn'd out from a conſiderable Office, as a ſcandal to the Court; for,ſaid the principal Miniſter, he will make no profit of his place, and by that means caſts a ſcandal upon thoſe that do.

If any man ſay, this is not generally the fate of all Courts, I confeſs it; and that if the Prince be juſt, vertuous, wiſe, of great Spirit, and not pretending to be abſolute, he may chuſe ſuch men as are not mercenary, or take ſuch a courſe as may render it hard for them to deſerve Bribes, or to preſerve themſelves from puniſhment, if they ſhould deflect from his intention. And a Prince of this Age, ſpeaking familiarly with ſome great Men about him,ſaid, he had heard much of vaſt Gains made by thoſe who were near to Princes, and ask'd if they made the like? one

of them anſwer'd, that they were as willing as others to get ſomething, but that no man would give them a farthing; for every one finding a free admittance to his Majeſty, no man needed a Sollicitor: And it was no leſs known that he did of himſelf grant thoſe things that were juſt, than that none of them had ſo much credit as to promote ſuch as were not ſo. I will not ſay ſuch a King is a Phenix; perhaps more than one may be found in an Age; but they are certainly rare, and all that is good in their Government proceeding from the excellency of their perſonal Vertues, it muſt fail when that Vertue fails which was the root of it. Experience ſhews how little we can rely upon ſuch a help; for where Crowns are hereditary, Children ſeldom prove like to their Fathers; and ſuch as are elective have alſo their defects. Many ſeem to be modeſt and innocent in private Fortunes, who prove corrupt and vicious when they are rais'd to Power. The violence, pride and malice of *Saul*, was never diſcover'd till the People had plac'd him in the Throne. But where the Government is Abſolute, or the Prince endeavours to make it ſo, this integrity can never be found: He will always ſeek ſuch as are content to depend upon his Will, which being always unruly, good men will never comply; ill men will be paid for it, and that opens a gap to all manner of corruption. Something like to this may befal regular Monarchys, or popular Governments. They who are plac'd in the principal Offices of truſt, may be treacherous; and when they are ſo, they will always by theſe means ſeek to gain Partizans and Dependents upon themſelves. Their deſigns being corrupt, they muſt be carry'd on by corruption: But ſuch as would ſupport Monarchy in its regularity, or popular Governments, muſt oppoſe it, or be deſtroy'd by it. And nothing can better manifeſt how far Abſolute Monarchys are more ſubject to this venality and corruption than the regular and popular Governments, than that they are rooted in the principle of the one, which cannot ſubſiſt without them; and are ſo contrary to the others, that they muſt certainly periſh unleſs they defend themſelves from them.

If any man be ſo far of another opinion, as to believe that *Brutus*, *Camillus*, *Scipio*, *Fabius*, *Hannibal*, *Pericles*, *Ariſtides*, *Ageſilaus*, *Epaminondas* or *Pelopidas*, were as eaſily corrupted as *Sejanus*, *Tigellinus*, *Vinnius* or *Laco*: That the Senat and People of *Rome*, *Carthage*, *Athens*, *Sparta* or *Thebes*, were to be bought at as eaſy rates as one profligate Villain, a Slave, an Eunuch or a Whore; or tho it was not in former Ages, yet it is ſo now: he may be pleas'd to conſider by what means men now riſe to places of Judicature, Church-preferment, or any Offices of truſt, honor or profit under thoſe Monarchys which we know, that either are or would be abſolute. Let him examin how all the Offices of Juſtice are now diſpos'd in *France*; how *Mazarin* came to be advanc'd; what traffick he made of Abbys and Biſhopricks, and what treaſures he gain'd by that means: Whether the like has not continu'd ſince his death, and as a laudable Example bin tranſmitted to us ſince his Majeſty's happy reſtauration: Whether Bauds, Whores, Thieves, Buffoons, Paraſites, and ſuch vile wretches as are naturally mercenary, have not more Power at *Whitehall*, *Verſailles*, the Vatican, and the Eſcurial, than in *Venice*, *Amſterdam*, and *Switzerland*: Whether *H-de*, *Arl-ngt-n*, *D-nby*, their Graces of *Cleveland* and *Portſmouth*, *S-nd-rl-nd*, *Jenkins* or *Chiffinch*, could probably have attain'd ſuch Power as they have had amongſt us, if it had bin diſpos'd by the Suffrages of the Parliament and People: Or laſtly, Whether ſuch as know only how to work upon the perſonal Vices of a man, have more

influence

influence upon one who happens to be born in a reigning Family, or upon a Senat conſiſting of men choſen for their Vertues and Quality, or the whole Body of a Nation. SECT. 26.

But if he who poſſeſſes or affects an abſolute Power be by his intereſt led to introduce that corruption which the People, Senat, and Magiſtrats who uphold Popular Governments, abhor, as that which threatens them with deſtruction; if the example, arts, and means us'd by him and his dependents be of wonderful efficacy towards the introduction of it: if nothing but an admirable Vertue, which can hardly be in one that enjoys or deſires ſuch a Power, can divert him from that deſign; and if ſuch Vertue never did, nor probably ever will continue long in any one Family, we cannot rationally believe there ever was a race of men inveſted with, or poſſeſſing ſuch a Power, or that there will ever be any, who have not and will not endeavour to introduce that corruption, which is ſo neceſſary for the defence of their Perſons, and moſt important Concernments, and certainly accompliſh their great Deſign, unleſs they are oppos'd or remov'd.

SECT. XXVI.

Civil Tumults and Wars are not the greateſt Evils that befal Nations.

BUT *skin for skin*, ſays our Author, *and all that a man has will he give for his life*. And ſince it was neceſſary to grace his Book with ſome Scripture-phraſes, none could be fitter for that purpoſe than thoſe that were ſpoken by the Devil; but they will be of little uſe to him: For tho I ſhould ſo far recede from truth, as to avow thoſe words to be true, I might ſafely deny the Concluſions he draws from them, *That thoſe are the worſt Governments under which moſt men are ſlain*; *or, that more are ſlain in Popular Governments than in Abſolute Monarchys*. For having prov'd that all the Wars and Tumults that have happen'd in Commonwealths, have never produc'd ſuch ſlaughters as were brought upon the Empires of *Macedon* and *Rome*, or the Kingdoms of *Iſrael*, *Judah*, *France*, *Spain*, *Scotland* or *England*, by Conteſts between ſeveral Competitors for thoſe Crowns; if Tumult, War, and Slaughter, be the point in queſtion, thoſe are the worſt of all Governments where they have bin moſt frequent and cruel. But tho theſe are terrible Scourges, I deny that Government to be ſimply the worſt that has moſt of them. 'Tis ill that men ſhould kill one another in Seditions, Tumults and Wars; but 'tis worſe to bring Nations to ſuch miſery, weakneſs and baſeneſs, as to have neither ſtrength nor courage to contend for any thing; to have nothing left worth defending, and to give the name of Peace to deſolation. I take *Greece* to have bin happy and glorious, when it was full of populous Citys, flouriſhing in all the Arts that deſerve praiſe among men: When they were courted and fear'd by the greateſt Kings, and never aſſaulted by any but to his own loſs and confuſion: When *Babylon* and *Suſa* trembled at the motion of their Arms; and their valor exercis'd in theſe Wars and Tumults, which our Author looks upon as the greateſt Evils, was rais'd to ſuch a power that nothing upon Earth was found able to reſiſt them: and I think it now miſerable, when Peace reigns within their

empty

CHAP. II.

empty walls, and the poor remains of thoſe exhauſted Nations ſheltering themſelves under the ruins of the deſolated Citys, have neither any thing that deſerves to be diſputed amongſt them, nor ſpirit or force to repel the Injurys they daily ſuffer from a proud and inſupportable Maſter.

The like may be ſaid of *Italy:* Whilſt it was inhabited by Nations governing themſelves by their own Will, they fell ſometimes into domeſtick Seditions, and had frequent Wars with their Neighbors. When they were free, they lov'd their Country, and were always ready to fight in its defence. Such as ſucceeded well, increas'd in vigor and power; and even thoſe that were the moſt unfortunate in one Age, found means to repair their greateſt loſſes if their Government continu'd. Whilſt they had a propriety in their goods, they would not ſuffer the Country to be invaded, ſince they knew they could have none if it were loſt. This gave occaſion to Wars and Tumults; but it ſharpen'd their Courage, kept up a good Diſciplin, and the Nations that were moſt exercis'd by them, always increas'd in power and number; ſo that no Country ſeems ever to have bin of greater ſtrength than *Italy* was when *Hannibal* invaded it: and after his defeat, the reſt of the World was not able to reſiſt their Valor and Power. They ſometimes kill'd one another; but their Enemys never got any thing but burying-places within their Territorys. All things are now brought into a very different method by the bleſſed Governments they are under. The fatherly care of the King of *Spain*, the Pope, and other Princes, has eſtabliſh'd Peace amongſt them. We have not in many Ages heard of any Sedition among the *Latins*, *Sabins*, *Volſci*, *Equi*, *Samnites*, or others. The thin, half-ſtarv'd Inhabitants of Walls ſupported by Ivy, fear neither popular Tumults, or foreign Alarms; and their ſleep is only interrupted by Hunger, the crys of their Children, or the howling of Wolves. Inſtead of many turbulent, contentious Citys, they have a few ſcatter'd ſilent Cottages; and the fierceneſs of thoſe Nations is ſo temper'd, that every raſcally Collector of Taxes extorts without fear from every man, that which ſhould be the nouriſhment of his Family. And if any of thoſe Countrys are free from that pernicious Vermin, 'tis thro the extremity of their Poverty. Even in *Rome* a man may be circumvented by the fraud of a Prieſt, or poiſon'd by one who would have his Eſtate, Wife, Whore, or Child; but nothing is done that looks like Tumult or Violence. The Governors do as little fear *Gracchus* as *Hannibal*; and inſtead of wearying their Subjects in Wars, they only ſeek, by perverted Laws, corrupt Judges, falſe Witneſſes, and vexatious Suits, to cheat them of their Mony and Inheritance. This is the beſt part of their condition. Where theſe Arts are us'd, there are men, and they have ſomething to loſe; but for the moſt part the Lands ly waſt, and they who were formerly troubled with the diſorders incident to populous Citys, now enjoy the quiet and peaceable eſtate of a Wilderneſs.

Again; there is a way of killing worſe than that of the Sword: for as *Tertullian* ſays upon a different occaſion, *prohibere naſci eſt occidere*; thoſe Governments are in the higheſt degree guilty of Blood, which by taking from men the means of living, bring ſome to periſh thro want, drive others out of the Country, and generally diſſuade men from marriage, by taking from them all ways of ſubſiſting their Familys. Notwithſtanding all the Seditions of *Florence*, and other Citys of *Tuſcany*, the horrid Factions of *Guelphs* and *Gibelins*, *Neri* and *Bianchi*, Nobles and Commons,

they

they continu'd populous, ſtrong, and exceeding rich; but in the ſpace of leſs than a hundred and fifty years, the peaceable Reign of the *Medices* is thought to have deſtroy'd nine parts in ten of the people of that Province. Amongſt other things 'tis remarkable, that when *Philip* the ſecond of *Spain* gave *Sienna* to the Duke of *Florence*, his Embaſſador then at *Rome* ſent him word, that he had given away more than ſix hundred and fifty thouſand Subjects; and 'tis not believ'd there are now twenty thouſand Souls inhabiting that City and Territory. *Piſa*, *Piſtoia*, *Arezzo*, *Cortona*, and other Towns that were then good and populous, are in the like proportion diminiſh'd, and *Florence* more than any. When that City had bin long troubled with Seditions, Tumults, and Wars, for the moſt part unproſperous, they ſtill retain'd ſuch ſtrength, that when *Charles* the eighth of *France* being admitted as a Friend with his whole Army, which ſoon after conquer'd the Kingdom of *Naples*, thought to maſter them, the people taking up Arms ſtruck ſuch a terror into him, that he was glad to depart upon ſuch conditions as they thought fit to impoſe. *Machiavel* reports, that in that time *Florence* alone, with the *Val d' Arno*, a ſmall Territory belonging to that City, could, in a few hours, by the ſound of a Bell, bring together a hundred and thirty five thouſand well arm'd men; whereas now that City, with all the others in that Province, are brought to ſuch deſpicable weakneſs, emptineſs, poverty and baſeneſs, that they can neither reſiſt the oppreſſions of their own Prince, nor defend him or themſelves if they were aſſaulted by a foreign Enemy. The People are diſpers'd or deſtroy'd, and the beſt Familys ſent to ſeek Habitations in *Venice*, *Genoa*, *Rome*, and *Lucca*. This is not the effect of War or Peſtilence; they enjoy a perfect peace, and ſuffer no other plague than the Government they are under. But he who has thus cur'd 'em of Diſorders and Tumults, dos, in my opinion, deſerve no greater praiſe than a Phyſician, who ſhould boaſt there was not a ſick perſon in a houſe committed to his care, when he had poiſon'd all that were in it. The *Spaniards* have eſtabliſh'd the like peace in the Kingdoms of *Naples* and *Sicily*, the *Weſt-Indys*, and other places. The *Turks* by the ſame means prevent Tumults in their Dominions. And they are of ſuch efficacy in all places, that *Mario Chigi*, Brother to Pope *Alexander* the ſeventh, by one ſordid cheat upon the ſale of Corn, is ſaid within eight years to have deſtroy'd above a third part of the people in the Eccleſiaſtical State; and that Country, which was the ſtrength of the *Romans* in the time of the *Carthaginian* Wars, ſuffer'd more by the covetouſneſs and fraud of that Villain, than by all the defeats receiv'd from *Hannibal*.

SECT. 26.

Guicciard.

'Twere an endleſs work to mention all the places where this peaceable ſolitude has bin introduc'd by abſolute Monarchy; but Popular and regular Governments have always apply'd themſelves to increaſe the Number, Strength, Power, Riches, and Courage of their People, by providing comfortable ways of ſubſiſtence for their own Citizens, inviting Strangers, and filling them all with ſuch a love to their Country, that every man might look upon the publick Cauſe as his own, and be always ready to defend it. This may ſometimes give occaſion to Tumults and Wars, as the moſt vigorous Bodys may fall into Diſtempers: When every one is ſolicitous for the Publick, there may be difference of opinion, and ſome by miſtaking the way may bring prejudice when they intend profit: But unleſs a Tyrant dos ariſe, and deſtroy the Government which is the root of their felicity; or they be overwhelm'd by the irreſiſtible power of a Vertue or Fortune greater than their own, they ſoon re-

CHAP. II.

cover, and for the moſt part riſe up in greater Glory and Proſperity than before. This was ſeen in the Commonwealths of *Greece* and *Italy*, which for this reaſon were juſtly called Nurſerys of Vertue, and their Magiſtrats Preſervers of men; whereas our Author's peace-making Monarchs can deſerve no better title than that of Enemys and Deſtroyers of Mankind.

I cannot think him in earneſt when he exaggerates *Sylla*'s Crueltys, as a proof that the miſchiefs ſuffer'd under free States are more univerſal than under Kings and Tyrants: For there never was a Tyrant in the World if he was not one; tho thro wearineſs, infirmity of body, fear, or perhaps the horror of his own wickedneſs, he at length reſign'd his Power; but the evil had taken root ſo deep, that it could not be remov'd: There was nothing of Liberty remaining in *Rome:* The Laws were overthrown by the violence of the Sword; the remaining Conteſt was who ſhould be Lord: and there is no reaſon to believe that if *Pompey* had gain'd the Battel of *Pharſalia*, he would have made a more modeſt uſe of his Victory than *Cæſar* did; or that *Rome* would have bin more happy under him than under the other. His Cauſe was more plauſible becauſe the Senat follow'd him, and *Cæſar* was the Invader; but he was no better in his perſon, and his deſigns ſeem to have bin the ſame. He had bin long before *ſuarum legum auctor & everſor.* He gave the beginning to the firſt Triumvirat; and 'twere folly to think that he who had bin inſolent when he was not come to the higheſt pitch of Fortune, would have prov'd moderate if ſucceſs had put all into his hands. The proceedings of *Marius*, *Cinna*, *Catiline*, *Octavius*, and *Antonius* were all of the ſame nature. No Laws were obſerv'd: no publick Good intended; the ambition of private perſons reign'd; and whatſoever was done by them, or for their intereſts, can no more be apply'd to Popular, Ariſtocratical or mix'd Governments, than the furys of *Caligula* and *Nero*.

SECT. XXVII.

The Miſchiefs and Crueltys proceeding from Tyranny, are greater than any that can come from Popular or mix'd Governments.

'TIs now time to examin the reaſons of our Author's general Maxims. *The Crueltys*, ſays he, *of a Tyrant extend ordinarily no farther than ſome particular men that offend him, and not to the whole Kingdom. It is truly ſaid of his late Majeſty King* James, *A King can never be ſo notoriouſly vicious, but he will generally favour Juſtice, and maintain ſome order. Even cruel* Domitian, Dionyſius *the Tyrant, and many others are commended in Hiſtorys as great obſervers of Juſtice, except in particular caſes, wherein his inordinate luſts may carry him away.* It may be ſaid of Popular Governments, that tho a People thro error do ſometimes hurt a private perſon, and that injury may poſſibly reſult to the publick damage, becauſe the man that is offended or deſtroy'd, might have bin uſeful to the Society, yet they never do it otherwiſe than by error: For having the Government in themſelves, whatever is prejudicial to it, is ſo to them; and if they ruin it, they ruin themſelves, which no man ever did willingly and knowingly. But in abſolute Monarchys the matter is quite otherwiſe. A Prince that ſets up an intereſt in himſelf, becomes an Enemy to the Publick: in following his own luſts he offends all, except a few of his corrupt Creatures,

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by whoſe help he oppreſſes others with a Yoke they are unwilling to bear, and thereby incurs the univerſal hatred. This hatred is always proportionable to the injurys receiv'd, which being extreme, that muſt be ſo too; and every People being powerful in compariſon to the Prince that governs, he will always fear thoſe that hate him, and always hate thoſe he fears. When *Luigi Farneſe* firſt Duke of *Parma* had by his Tyranny incens'd the People of that ſmall City, their hatred was not leſs mortal to him than that of the whole Empire had bin to *Nero*; and as the one burnt *Rome*, the other would have deſtroy'd *Parma*, if he had not bin prevented. The like has bin, and will be every where, in as much as every man endeavours to deſtroy thoſe whom he hates and fears; and the greatneſs of the danger often drives this * fear to rage and madneſs. For this reaſon *Caligula* wiſh'd but one Neck to all the People; and *Nero* triumph'd over the burning City, thinking by that ruin he had prevented his own danger. I know not who the good Authors are that commend *Domitian* for his Juſtice: but *Tacitus* calls him *Principem virtutibus infeſtum*; and 'tis hard to find out how ſuch a man can be an obſerver of juſtice; unleſs it be juſt, that whoever dares to be vertuous under a vicious and baſe Prince ſhould be deſtroy'd. Another † Author of the ſame time ſpeaking of him, dos not ſay he was unjuſt, but gives us reaſon to think he was ſo (unleſs it were juſt for him, who had a power over the beſt part of the World, to deſtroy it) and that he who by his cruelty had brought it to the laſt gaſp, would have finiſh'd the work, if his rage had not bin extinguiſh'd. SECT. 27

Tacit. in Vit. Agric.

Many Princes not having in themſelves power to deſtroy their People, have ſtir'd up foreign Nations againſt them, and plac'd the only hopes of their ſafety in the publick Calamity; and lawful Kings when they have fallen into the firſt degree of madneſs, ſo as to aſſume a power above that which was allow'd by the Law, have in fury prov'd equal to the worſt Uſurpers. *Cleonymus* of *Sparta* was of this ſort: He became, ſays *Plutarch*, an Enemy to the City, becauſe they would not allow him the abſolute Power he affected; and brought *Pyrrhus*, the fierceſt of their Enemys, with a mighty and excellently well diſciplin'd Army, to deſtroy them. *Vortigern* the *Britan* call'd in the *Saxons* with the ruin of his own People, who were incens'd againſt him for his Leudneſs, Cruelty, and Baſeneſs. King *John* for the like reaſons offer'd the Kingdom of *England* to the *Moors*, and to the Pope. *Peter* the Cruel, and other Kings of *Caſtile* brought vaſt Armys of *Moors* into *Spain* to the ruin of their own People, who deteſted their Vices, and would not part with their Privileges. Many other examples of the like nature might be alledg'd; and I wiſh our own experience did not too well prove that ſuch deſigns are common. Let him that doubts this examin the Cauſes of the Wars with *Scotland* in the Years 1639, 1640; the ſlaughters of the Proteſtants in *Ireland* 1641; the whole courſe of Alliances and Treatys for the ſpace of fourſcore Years; the friendſhip contracted with the *French*; frequent Quarrels with the *Dutch*, together with other circumſtances that are already made too publick. If he be not convinc'd by this, he may ſoon ſee a man in the Throne, who had rather be a Tributary to *France* than a lawful King of *England*, whilſt either Parliament or People ſhall dare to diſpute his

Plut. Vit. Pyrrh.

Mat. Weſtm.

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* Cuncta ferit dum cuncta timet. *Lucan.*

† Cum jam ſemianimem laceraret Flavius orbem
Tertius, & calvo ſerviret Roma Tyranno. *Juvenal.*

CHAP. II. Commands, inſiſt upon their own Rights, or defend a Religion inconſiſtent with that which he has eſpous'd; and then the truth will be ſo evident as to require no proof.

Grotius was never accus'd of dealing hardly with Kings, or laying too much weight upon imaginary caſes; nevertheleſs amongſt other reaſons that in his opinion juſtify Subjects in taking arms againſt their Princes, he alledges this, *propter immanem ſævitiam*, and *quando Rex in Populi exitium fertur*; in as much as it is *contrary to, and inconſiſtent with the ends for which Governments are inſtituted:* which were moſt impertinent, if no ſuch thing could be; for that which is not, can have no effect. There are therefore Princes who ſeek the deſtruction of their People, or none could be juſtly oppos'd on that account.

De Jur. Bel.

If King *James* was of another opinion, I could wiſh the courſe of his Government had bin ſuted to it. When he ſaid that whilſt he had the power of making Judges and Biſhops, he would make that to be Law and Goſpel which beſt pleas'd him, and accordingly fill'd thoſe places with ſuch as turn'd both according to his Will and Intereſts; I muſt think that by overthrowing Juſtice, which is the rule of civil and moral Actions, and perverting the Goſpel which is the light of the ſpiritual man, he left nothing unattempted that he durſt attempt, by which he might bring the moſt extenſive and univerſal evils upon our Nation that any can ſuffer. This would ſtand good, tho Princes never err'd, unleſs they were *tranſported with ſome inordinate Luſts*; for 'tis hard to find one that dos not live in the perpetual power of them. They are naturally ſubject to the impulſe of ſuch appetites as well as others; and whatever evil reigns in their Nature is fomented by Education. 'Tis the handle by which their Flatterers lead them; and he that diſcovers to what Vice a Prince is moſt inclin'd, is ſure to govern him by rendring himſelf ſubſervient. In this conſiſts the chief art of a Courtier, and by this means it comes to paſs that ſuch Luſts as in private men are curb'd by fear, do not only rage as in a wild Beaſt, but are perpetually inflam'd by the malice of their own Servants: their hatred to the Laws of God or Men that might reſtrain them, increaſes in proportion with their Vices, or their fears of being puniſh'd for them. When they are come to this, they can ſet no limits to their fury, and there is no extravagance into which they do not frequently fall. But many of 'em do not expect theſe violent motives: the perverſity of their own nature carrys them to the extremitys of evil. They hate Vertue for its own ſake, and vertuous men for being moſt unlike to themſelves. Vertue is the dictate of Reaſon, or the remains of Divine Light, by which men are made beneficent and beneficial to each other. Religion proceeds from the ſame ſpring, and tends to the ſame end; and the good of Mankind ſo intirely depends upon theſe two, that no People ever enjoy'd any thing worth deſiring that was not the product of them; and whatſoever any have ſuffer'd that deſerves to be abhor'd and fear'd, has proceeded either from the defect of theſe, or the wrath of God againſt them. If any Prince therefore has bin an enemy to Vertue and Religion, he muſt alſo have bin an enemy to Mankind, and moſt eſpecially to the People under him. Whatſoever he dos againſt thoſe that excel in Vertue and Religion, tends to the deſtruction of the People who ſubſiſt by them. I will not take upon me to define who they are, or to tell the number of thoſe that do this: but 'tis certain there have bin ſuch; and I wiſh I could ſay they were few in number, or that they had liv'd only in paſt ages. *Tacitus* dos not fix this upon one Prince, but upon

upon all that he writes of; and to give his Readers a taſt of what he was to write, he ſays, *that Nobility and Honors were dangerous, but that Vertue brought moſt certain deſtruction*; and in another place, that *after the ſlaughter of many excellent men*, Nero *reſolv'd to cut down Vertue it ſelf, and therefore kill'd* Thraſeas Pætus *and* Bareas Soranus. And whoſoever examins the Chriſtian or Eccleſiaſtical Hiſtorys, will find thoſe Princes to have bin no leſs enemys to Vertue and Religion than their Predeceſſors, and conſequently enemys to the Nations under them, unleſs Religion and Vertue be things prejudicial or indifferent to Mankind. SECT. 27. Tacit. Hiſt. l. 1. Annal. l. 4.

But our Author may ſay, theſe were particular caſes; and ſo was the ſlaughter of the Prophets and Apoſtles, the crucifixion of Chriſt, and all the Villanys that have ever bin committed; yet they proceeded from a univerſal principle of hatred to all that is good, exerting it ſelf as far as it could, to the ruin of mankind: And nothing but the overruling Power of God, who reſolv'd to preſerve to himſelf a People, could ſet bounds to their Rage, which in other reſpects had as full ſucceſs as our Author or the Devil could have wiſh'd.

Dionyſius (his other example of Juſtice) deſerves obſervation: More falſhood, leudneſs, treachery, ingratitude, cruelty, baſeneſs, avarice, impudence and hatred to all manner of Good, was hardly ever known in in a mortal Creature. For this reaſon *Diogenes* ſeeing him at *Corinth*, tho in a poor and contemptible condition, ſaid, he rather deſerv'd to have continu'd in the miſery, fears and villanys of his Tyranny, than to be ſuffer'd peaceably to converſe with honeſt men. And if ſuch as theſe are to be call'd obſervers of Juſtice, it muſt be concluded that the Laws of God and of Men, are either of no value, or contrary to it; and that the deſtruction of Nations is a better work than their preſervation. No Faith is to be obſerv'd: Temples may be juſtly ſack'd; the beſt men ſlain for daring to be better than their Maſters; and the whole World, if it were in the power of one Man, rightly torn in pieces and deſtroy'd.

His Reaſons for this are as good as his Doctrin: *It is*, ſays he, *the multitude of people and abundance of riches, that are the glory and ſtrength of every Prince: the bodys of his Subjects do him ſervice in War, and their goods ſupply his wants. Therefore if not out of affection to his people, yet out of natural love unto himſelf, every Tyrant deſires to preſerve the lives and goods of his Subjects.* I ſhould have thought that Princes, tho Tyrants, being God's Vicegerents, and Fathers of their People, would have ſought their good, tho no advantage had thereby redounded to themſelves, but it ſeems no ſuch thing is to be expected from them. They conſider Nations, as Graſiers do their Herds and Flocks, according to the profit that can be made of them: and if this be ſo, a People has no more ſecurity under a Prince, than a Herd or Flock under their Maſter. Tho he deſire to be a good Husband, yet they muſt be deliver'd up to the ſlaughter when he finds a good Market, or a better way of improving his Land; but they are often fooliſh, riotous, prodigal, and wantonly deſtroy their Stock, tho to their own prejudice. We thought that all Princes and Magiſtrats had bin ſet up, that under them we might live quietly and peaceably, in all godlineſs and honeſty: but our Author teaches us, that they only ſeek what they can make of our Bodys and Goods, and that they do not live and reign for us, but for themſelves. If this be true, they look upon us not as Children, but as Beaſts; nor do us any good for our own ſakes, or becauſe it is their duty, but only that we may be uſeful to them, as Oxen are put into plentiful Paſtures that they may be ſtrong for labour,

or

CHAP. II.

or fit for ſlaughter. This is the divine Model of Government that he offers to the World. The juſt Magiſtrate is the Miniſter of God for our good: but this Abſolute Monarch has no other care of us, than as our Riches and Multitude may increaſe his own Glory and Strength. We might eaſily judg what would be the iſſue of ſuch a Principle, when the Being of Nations depending upon his will, muſt alſo depend upon his opinion whether the Strength, Multitude and Riches of a People do conduce to the increaſe of Glory and Power or not, tho Hiſtorys were ſilent in the caſe; for theſe things ſpeak of themſelves. The judgment of a ſingle man is not to be rely'd upon; the beſt and wiſeſt do often err, the fooliſh and perverſe always; and our diſcourſe is not of what *Moſes* or *Samuel* would do, but what may come into the fancy of a furious or wicked man who may uſurp the ſupreme Power, or a child, a woman, or a fool, that may inherit it. Beſides, the Propoſition upon which he builds his Concluſion, proves often falſe: for as the Riches, Power, Number and Courage of our Friends is for our advantage, and that of our Enemys threatens us with ruin; thoſe Princes only can reaſonably believe the ſtrength of their Subjects beneficial to them, who govern ſo as to be aſſur'd of their Affection, and that their Strength will be imploy'd for them: But thoſe who know they are, or juſtly deſerve to be hated, cannot but think it will be employ'd againſt them, and always ſeek to diminiſh that which creates their danger. This muſt certainly befal as many as are leud, fooliſh, negligent, imprudent, cowardly, wicked, vicious, or any way unworthy the places they obtain; for their Reign is a perpetual exerciſe of the moſt extreme and ruinous Injuſtice: Every man that follows an honeſt Intereſt, is prejudic'd: Every one who finds the Power that was ordain'd for his good, to be turn'd to his hurt, will be angry and hate him that dos it: If the People be of uncorrupted manners, this hatred will be univerſal, becauſe every one of them deſires that which is juſt; if compos'd of good and evil, the firſt will always be averſe to the evil Government, and the others endeavouring to uphold it, the ſafety of the Prince muſt depend upon the prevalence of either Party. If the beſt prove to be the ſtrongeſt, he muſt periſh: and knowing himſelf to be ſupported only by the worſt, he will always deſtroy as many of his Enemys as he can; weaken thoſe that remain; enrich his Creatures with their Spoils and Confiſcations; by fraud and rapine accumulate Treaſures to increaſe the number of his Party, and advance them into all places of power and truſt, that by their aſſiſtance he may cruſh his Adverſarys; and every man is accounted his Adverſary, who has either Eſtate, Honor, Vertue or Reputation. This naturally caſts all the Power into the hands of thoſe who have no ſuch dangerous qualitys, nor any thing to recommend them, but an abſolute reſignation of themſelves to do whatever they are commanded. Theſe men having neither will nor knowledg to do good, as ſoon as they come to be in power, Juſtice is perverted, military Diſciplin neglected, the publick Treaſures exhauſted, new Projects invented to raiſe more; and the Prince's wants daily increaſing, thro their ignorance, negligence, or deceit, there is no end of their devices and tricks to gain ſupplys. To this end ſwarms of Spys, Informers, and falſe Witneſſes are ſent out to circumvent the richeſt and moſt eminent men: The Tribunals are fill'd with Court-Paraſites of profligate Conſciences, Fortunes and Reputation, that no man may eſcape who is brought before them. If Crimes are wanting, the diligence of well-choſen Officers and Proſecutors, with the favor of the Judges, ſupply all defects; the Law is made a Snare;

Snare; Vertue ſuppreſs'd, Vice fomented, and in a ſhort time Honeſty and Knavery, Sobriety and Leudneſs, Vertue and Vice, become Badges of the ſeveral Factions; and every man's converſation and manners ſhewing to what Party he is addicted, the Prince who makes himſelf head of the worſt, muſt favour them to the overthrow of the beſt, which is ſo ſtreight a way to an univerſal ruin, that no State can prevent it, unleſs that courſe be interrupted. SECT. 28.

Theſe things conſider'd, no general Judgment can be made of a Magiſtrate's Counſels, from his Name or Duty. He that is juſt, and become grateful to the People by doing good, will find his own Honor and Security in increaſing their Number, Riches, Vertue, and Power: If on the other ſide, by doing evil, he has drawn upon himſelf the publick hatred, he will always endeavour to take from them the power of doing him any hurt, by bringing them into the utmoſt weakneſs, poverty, and baſeneſs. And whoever would know whether any particular Prince deſires to increaſe or deſtroy the bodys and goods of his Subjects, muſt examin whether his Government be ſuch as renders him grateful or odious to them; and whether he dos purſue the publick Intereſt, or for the advancement of his own Authority ſet up one in himſelf contrary to that of his People; which can never befal a Popular Government, and conſequently no miſchief equal to it can be produc'd by any ſuch, unleſs ſomething can be imagin'd worſe than corruption and deſtruction.

SECT. XXVIII.

Men living under Popular or Mix'd Governments, are more careful of the publick Good, than in Abſolute Monarchys.

OUR Author delighting in ſtrange things, dos in the next place, with an admirable ſagacity, diſcover two faults in Popular Governments, that were never found by any man before him; and theſe are no leſs than Ignorance and Negligence. Speaking of the Care of Princes to preſerve their Subjects, he adds; *On the contrary in a Popular State, every man knows the publick Good doth not wholly depend upon his Care, but the Commonwealth may be well enough govern'd by others, tho he only tend his private buſineſs.* And a little below, *Nor are they much to be blam'd for their Negligence, ſince it is an even wager their Ignorance may be as great. The Magiſtrats amongſt the people being for the moſt part annual, do always lay down their Office before they underſtand it; ſo as a Prince of a duller underſtanding muſt needs excel them.* This is bravely determin'd, and the world is beholden to *Filmer* for the diſcovery of the Errors that have hitherto bin Epidemical. Moſt men had believ'd, that ſuch as live in Free States, are uſually pleas'd with their condition, deſire to maintain it; and every man finding his own good comprehended in the Publick, as thoſe that ſail in the ſame Ship, employs the Talent he has in endeavouring to preſerve it, knowing that he muſt periſh if that miſcarry. This was an incouragement to Induſtry; and the continual Labors and Dangers to which the *Romans* and other free Nations expos'd themſelves, have bin taken for Teſtimonys that they thought themſelves concern'd in the buſineſſes that paſt among them, and that every one did not neglect them thro an opinion that they would be done well enough by others. It was alſo thought that

CHAP. II.

that free Citys, by frequent Elections of Magiſtrats, became Nurſerys of great and able Men, every man endeavouring to excel others, that he might be advanc'd to the Honor he had no other title to than what might ariſe from his Merit or Reputation; in which they ſucceeded ſo well, that one of them may be juſtly ſaid to have produc'd more eminent Men, than all the Abſolute Monarchys that have bin in the World. But theſe were miſtakes. Perhaps *Brutus*, *Valerius*, and other *Roman* Senators or Magiſtrats, for the ſpace of three hundred years, might have taken ſome care of the Commonwealth, if they had thought it wholly depended upon one of them: But believing it would be well enough govern'd by others, they neglected it. *Camillus*, *Cincinnatus*, *Papirius*, *Fabius*, *Rullus* and *Maximus*, *Scipio Africanus*, *Amilcar*, *Hannibal*, *Pericles*, *Themiſtocles*, *Alcibiades*, *Epaminondas*, *Philopemen*, and others, might have prov'd able Men in affairs of War or Government; but they were remov'd from their Offices before they underſtood them, and muſt needs be excel'd in both by Princes, tho of duller underſtanding. This may be enough to excuſe them for performing their Duty ſo ſlackly and meanly: But 'tis ſtrange that *Tacitus*, and others, ſhould ſo far overlook the Reaſon, and ſo groſly miſtake the matter of Fact, as not only to ſay, that great and excellent Spirits fail'd when Liberty was loſt, and all Preferments given to thoſe who were moſt propenſe to Slavery; but that there wanted men even to write the Hiſtory, *Inſcitia Reipublicæ ut alienæ.* They never apply'd themſelves to underſtand Affairs depending upon the will of one man, in whom they were no otherwiſe concern'd, than to avoid the effects of his Rage; and that was chiefly to be done, by not falling under the ſuſpicion of being vertuous. This was the ſtudy then in requeſt; and the moſt cunning in this Art were call'd *Scientes temporum:* No other wiſdom was eſteem'd in that and the enſuing Ages, and no more was requir'd, ſince the Paternal Care, deep Wiſdom, and profound Judgment of the Princes provided for all; and tho they were of duller underſtandings, they muſt needs excel other Magiſtrats, who having bin created only for a year, left their Offices before they could underſtand the Dutys of them. This was evidenc'd by that tenderneſs and ſincerity of heart, as well as the great purity of manners obſerv'd in *Tiberius*; the Clemency, Juſtice, ſolid Judgment and Frugality of *Caligula*; the Induſtry, Courage and Sobriety of *Claudius*; the good Nature and prudent Government of *Nero*; the Temperance, Vivacity and Diligence of *Vitellius*; the Liberality of *Galba* and *Veſpaſian*; together with the Encouragement given by *Domitian*, *Commodus*, *Heliogabalus*, and many others, to all manner of Vertues, and Favors confer'd upon thoſe that excel'd in them. Our Author giving ſuch infallible proof of his Integrity and Underſtanding, by teaching us theſe things that would never have come into our heads, ought ſurely to be credited, tho that which he propoſes ſeems to be moſt abſurd. But if we believe ſuch as liv'd in thoſe times, or thoſe who in later ages have perus'd their Writings, we cannot but think the Princes beforemention'd, and the greateſt part of thoſe who poſſeſt the ſame places, not only to have bin void of all Vertue, and to have ſuffer'd none to grow up under them, but in baſeneſs, ſottiſhneſs and malice, to have bin equal to the worſt of all Beaſts. Whilſt one Prince polluted with Luſt and Blood, ſat in his *Grotto* at *Capreæ*, ſurrounded with an infamous Troop of Aſtrologers, and others were govern'd by Whores, Bardache's, manumis'd Slaves, and other Villains, the Empire was ruin'd thro their negligence, incapacity and wickedneſs; and the City that had

Tacit. Annal. l. 1.

had flouriſh'd in all manner of Vertue, as much or more than any that has bin yet known in the world, produc'd no more; the Diſciplin was diſſolv'd that nouriſh'd it; no man could hope to advance a publick Good, or obviate an Evil by his diligence and valor; and he who acquir'd reputation by either, could expect no other reward than a cruel death. If *Germanicus* and *Corbulo*, who were born when Liberty was expiring, be brought for Examples againſt the firſt part of my Aſſertion, their ends will juſtify the latter; and no eminent *Roman* Family is known to have brought forth a man that deſerv'd to be nam'd in Hiſtory ſince their time. This is as probable in reaſon, as true in fact. Men are valiant and induſtrious, when they fight for themſelves and their Country; they prove excellent in all the Arts of War and Peace, when they are bred up in vertuous Exerciſes, and taught by their Fathers and Maſters to rejoice in the Honors gain'd by them: they love their Country, when the good of every particular man is comprehended in the publick Proſperity, and the ſucceſs of their Atchievements is improv'd to the general advantage: They undertake hazards and labors for the Government, when 'tis juſtly adminiſter'd; when Innocence is ſafe, and Vertue honour'd; when no man is diſtinguiſh'd from the vulgar, but ſuch as have diſtinguiſh'd themſelves by the bravery of their actions; when no honor is thought too great for thoſe who do it eminently, unleſs it be ſuch as cannot be communicated to others of equal merit: They do not ſpare their Perſons, Purſes, or Friends, when the publick Powers are employ'd for the publick Benefit, and imprint the like affections in their Children from their Infancy. The diſciplin of Obedience in which the *Romans* were bred, taught them to command: and few were admitted to the Magiſtracys of inferior rank, till they had given ſuch proof of their Vertue as might deſerve the Supreme. *Cincinnatus*, *Camillus*, *Papirius*, *Mamercus*, *Fabius Maximus*, were not made Dictators, that they might learn the Dutys of the Office; but becauſe they were judg'd to be of ſuch Wiſdom, Valor, Integrity and Experience, that they might be ſafely truſted with the higheſt Powers; and whilſt the Law reign'd, not one was advanc'd to that honor, who did not fully anſwer what was expected from him. By this means the City was ſo repleniſh'd with men fit for the greateſt employments, that even in its infancy, when three hundred and ſix of the *Fabii*, *Quorum neminem*, ſays *Livy*, *ducem ſperneret quibuſlibet temporibus Senatus*, were kill'd in one day, the City did lament the loſs, but was not ſo weaken'd to give any advantage to their Enemys: and when every one of thoſe who had bin eminent before the ſecond Punic War, *Fabius Maximus* only excepted, had periſh'd in it, others aroſe in their places, who ſurpaſt them in number, and were equal to them in Vertue. The City was a perpetual ſpring of ſuch men as long as Liberty laſted; but that was no ſooner overthrown, than Vertue was torn up by the roots; the People became baſe and ſordid, the ſmall remains of the Nobility ſlothful and effeminate; and their *Italian* Aſſociats becoming like to them, the Empire whilſt it ſtood, was only ſuſtain'd by the ſtrength of Foreigners.

SECT. 28.

The *Grecian* Vertue had the ſame fate, and expir'd with Liberty: inſtead of ſuch Soldiers as in their time had no equals, and ſuch Generals of Armys and Fleets, Legiſlators and Governors, as all ſucceeding Ages have juſtly admir'd, they ſent out ſwarms of Fidlers, Jeſters, Chariot-drivers, Players, Bawds, Flatterers, Miniſters of the moſt impure Luſts; or idle, babling, hypocritical Philoſophers, not much better than they. The Emperors Courts were always crouded with this Vermin; and not-

CHAP. II.

withſtanding the neceſſity our Author imagins that Princes muſt needs underſtand matters of Government better than Magiſtrats annually choſen, they did for the moſt part prove ſo brutiſh as to give themſelves and the World to be govern'd by ſuch as theſe, and that without any great prejudice, ſince none could be found more ignorant, leud, and baſe than themſelves.

'Tis abſurd to impute this to the change of times; for time changes nothing; and nothing was chang'd in thoſe times but the Government, and that chang'd all things. This is not accidental, but according to the rules given to Nature by God, impoſing upon all things a neceſſity of perpetually following their Cauſes. Fruits are always of the ſame nature with the Seeds and Roots from which they come, and Trees are known by the fruits they bear: As a Man begets a Man, and a Beaſt a Beaſt; that Society of Men which conſtitutes a Government upon the foundation of Juſtice, Vertue, and the common Good, will always have men to promote thoſe ends; and that which intends the advancement of one man's deſires and vanity, will abound in thoſe that will foment them. Men follow that which ſeems advantageous to themſelves. Such as are bred under a good diſciplin, and ſee that all benefits procur'd to their Country by vertuous Actions, redound to the honor and advantage of themſelves, their Children, Friends, and Relations, contract from their infancy a love to the Publick, and look upon the common Concernments as their own. When they have learnt to be vertuous, and ſee that Vertue is in eſteem, they ſeek no other preferments than ſuch as may be obtain'd that way; and no Country ever wanted great numbers of excellent men, where this method was eſtabliſh'd. On the other ſide, when 'tis evident that the beſt are deſpis'd, hated, or mark'd out for deſtruction; all things calculated to the humor or advantage of one man, who is often the worſt, or govern'd by the worſt; Honors, Riches, Commands, and Dignitys diſpos'd by his Will, and his favor gain'd only by a moſt obſequious reſpect, or a pretended affection to his perſon, together with a ſervile obedience to his commands, all Applications to vertuous Actions will ceaſe; and no man caring to render himſelf or his Children worthy of great Imployments, ſuch as deſire to have them will, by little intrigues, corruption, ſcurrility and flattery, endeavour to make way to them; by which means true Merit in a ſhort time comes to be aboliſh'd, as fell out in *Rome* as ſoon as the *Cæſars* began to reign.

He who dos not believe this, may ſee whether the like did not happen in all the other Commonwealths of *Italy* and *Greece*; or if modern examples are thought to be of more value, let him examin whether the Noblemen of *Venice*, who are born and bred in Familys that never knew a Maſter; who act for themſelves, and have a part in all the good or evil that befals the Commonwealth, and know that if it be deſtroy'd, they muſt periſh, or at leaſt that all changes are to their prejudice, do neglect the publick Intereſts, as thinking that the whole not depending upon any one of them, things will be well enough govern'd, tho they attend only their private benefit. Let it be obſerv'd whether they do better underſtand the common concernments, than the great men of *France* or *Spain*, who never come to the knowledg of any thing, unleſs they happen to be favor'd by the King or his Miniſters, and know themſelves never to be more miſerable than when their Maſter is moſt proſperous. For my own part, I cannot think it neceſſary to alledg any other proof of this point, than that when *Maximilian* the Emperor, *Lewis* the twelfth of

† *France*,

France, the fierce Pope *Julius* the ſecond, and *Ferdinand* the ſubtil and powerful King of *Spain*, had by the League of *Cambray* combin'd againſt the *Venetians*, gain'd the Battel of *La Ghirad'adda*, taken *Alviano* their General priſoner, depriv'd them of all their Dominion on the *Terra firma*, and prepar'd to aſſault the City, it was, under God, ſolely preſerv'd by the vigor and wiſdom of their Nobility, who tho no way educated to War, unleſs by Sea, ſparing neither perſons nor purſes, did with admirable induſtry and courage firſt recover *Padoüa*, and then many other Citys, ſo as at the end of that terrible War they came off without any diminution of their Territorys. Whereas *Portugal* having in our age revolted from the Houſe of *Auſtria*, no one doubts that it had bin immediately reduc'd, if the great men of *Spain* had not bin pleas'd with ſuch a leſſening of their Maſter's power, and reſolv'd not to repair it by the recovery of that Kingdom, or to deprive themſelves of an eaſy retreat when they ſhould be oppreſt by him or his Favorites. The like thought was more plainly expreſt by the Mareſchal *de Baſſompierre*, who ſeeing how hardly *Rochel* was preſt by *Lewis* the 13*th*, ſaid, * *he thought they ſhould be ſuch fools to take it*: but 'tis believ'd they would never have bin ſuch fools; and the treachery only of our Countrymen did enable the Cardinal *Richlieu* to do it (as for his own Glory, and the advancement of the Popiſh Cauſe he really intended) and nothing is to this day more common in the mouths of their wiſeſt and beſt men, tho Papiſts, than the acknowledgment of their own folly in ſuffering that place to fall, the King having by that means gotten power to proceed againſt them at his pleaſure. The brave Monſieur *de Turenne* is ſaid to have carry'd this to a greater height in his laſt Diſcourſe to the preſent King of *France*: "You think, ſaid he, you have "Armys, but you have none; the one half of the Officers are the Baw-"dy-houſe Companions of Monſieur *de xxx*, or the Creatures of his "Whore Madam *de xxx*: the other half may be men of experience, "and fit for their Imployments; but they are ſuch as would be pleas'd "with nothing more than to ſee you loſe two or three Battels, that com-"ing to ſtand in need of them, you might cauſe them to be better us'd "by your Miniſters than of late they have bin. It may eaſily be imagin'd how men in ſuch ſentiments do ſerve their Maſter; and nothing is more evident than that the *French* in this age have had ſo great advantages, that they might have brought *Europe*, and perhaps *Aſia*, under their power, if the intereſt of the Nation had bin united to that of the Government, and the Strength, Vigor, and Bravery of the Nobility employ'd that way. But ſince it has pleas'd God to ſuffer us to fall into a condition of being little able to help our ſelves, and that they are in ſo good terms with the *Turk* as not to attack him, 'tis our happineſs that they do not know their own ſtrength, or cannot without ruin to themſelves turn it to our prejudice.

SECT. 28.

Paol. Paruta Hiſt. Venet. Guicciard.

I could give yet more pregnant teſtimonys of the difference between men fighting for their own intereſts in the Offices to which they had bin advanc'd by the votes of numerous Aſſemblys, and ſuch as ſerve for pay, and get preferments by corruption or favor, if I were not unwilling to ſtir the ſpleen of ſome men, by obliging them to reflect upon what has paſt in our own Age and Country; to compare the Juſtice of our Tribunals within the time of our memory, and the integrity of thoſe who for a while manag'd the publick Treaſure; the Diſciplin, Valor and Strength

* Je croy qu'enfin Nous ſerons aſſez fous pour prendre la Rochelle. Mem. de Baſſompierre.

CHAP. II.

of our Armys and Fleets; the increaſe of our Riches and Trade; the ſucceſs of our Wars in *Scotland*, *Ireland*, and at Sea; the glory and reputation not long ſince gain'd, with that condition into which we are of late fallen. But I think, I ſhall offend no wiſe or good man, if I ſay, that as neither the *Romans* nor *Grecians* in the time of their Liberty ever perform'd any actions more glorious than freeing the Country from a Civil War that had rag'd in every part, the conqueſt of two ſuch Kingdoms as *Scotland* and *Ireland*, and cruſhing the formidable power of the *Hollanders* by Sea; nor ever produc'd more examples of Valor, Induſtry, Integrity, and in all reſpects compleat, diſintereſted, unmoveable and incorruptible Vertue than were at that time ſeen in our Nation: So neither of them upon the change of their Affairs did exceed us in weakneſs, cowardice, baſeneſs, venality, leudneſs, and all manner of corruption. We have reaſon therefore not only to believe that all Princes do not neceſſarily underſtand the affairs of their People, or provide better for them than thoſe who are otherwiſe choſen; but that as there is nothing of Greatneſs, Power, Riches, Strength, and Happineſs, which we might not reaſonably have hop'd for if we had rightly improv'd the advantages we had; ſo there is nothing of ſhame and miſery which we may not juſtly fear, ſince we have neglected them.

If any man think that this evil of advancing Officers for perſonal reſpects, favor or corruption, is not of great extent, I deſire him to conſider, that the Officers of State, Courts of Juſtice, Church, Armys, Fleets and Corporations, are of ſuch number and power as wholly to corrupt a Nation when they themſelves are corrupted; and will ever be corrupt, when they attain to their Offices by corruption. The good management of all Affairs, Civil, Military, and Eccleſiaſtical, neceſſarily depends upon good order and diſciplin; and 'tis not in the power of common men to reform abuſes patroniz'd by thoſe in Authority, nor to prevent the miſchiefs thereupon enſuing; and not having power to direct publick actions to the publick good, they muſt conſequently want the induſtry and affection that is requir'd to bring them to a good iſſue. The *Romans* were eaſily beaten under the *Decemviri*, tho immediately before the erection, and after the extinction of that Power, none of their Neighbours were able to reſiſt them. The *Goths*, who with much Glory had reign'd in *Spain* for about three hundred years, had neither ſtrength nor courage under their leud and odious King *Rodrigo*, and were in one day ſubdu'd with little loſs of blood by the *Saracens*, and could not in leſs than eight hundred years free their Country from them. That brave Nation having of late fallen under as baſe a conduct, has now as little heart or power to defend it ſelf: Court-Paraſites have render'd Valor ridiculous; and they who have ever ſhew'd themſelves as much inclin'd to Arms as any people of the world, do now abhor them, and are ſent to the Wars by force, laid in Carts, bound like Calves brought to the Shambles, and left to ſtarve in *Flanders* as ſoon as they arrive. It may eaſily be judg'd what ſervice can be expected from ſuch men, tho they ſhould happen to be well commanded: but the great Officers, by the corruption of the Court, think only of enriching themſelves; and encreaſing the miſery of the Soldiers by their frauds, both become equally uſeleſs to the State.

Notwithſtanding the ſeeming proſperity of *France*, matters there are not much better manag'd. The warlike temper of that people is ſo worn out by the frauds and cruelty's of corrupt Officers, that few men liſt themſelves willingly to be Soldiers; and when they are engag'd or forc'd, they are

are ſo little able to endure the miſerys to which they are expos'd, that they daily run away from their Colors, tho they know not whither to go, and expect no mercy if they are taken. The King has in vain attempted to correct this humor by the ſeverity of martial Law; but mens minds will not be forc'd; and tho his Troops are perfectly well arm'd, cloth'd, and exercis'd, they have given many teſtimonys of little worth. When the Prince of *Condé* had by his own Valor, and the Strength of the King's Guards, broken the firſt line of the Prince of *Orange*'s Army at the battel of *Seneff*, he could not make the ſecond and third line of his own Army to advance and reinforce the firſt, by which means he loſt all the fair hopes he had conceiv'd of an intire Victory. Not long after, the Mareſchal *de Crequi* was abandon'd by his whole Army near *Trier*, who ran away, hardly ſtriking a ſtroke, and left him with ſixteen horſe to ſhift for himſelf. When *Monſieur de Turenne*, by the excellency of his Conduct and Valor, had gain'd ſuch a Reputation amongſt the Soldiers, that they thought themſelves ſecure under him, he did not ſuffer ſuch diſgraces; but he being kill'd, they return'd to the uſual temper of forc'd and ill-us'd Soldiers: half the Army was loſt in a retreat, little differing from a flight; and the reſt, as they themſelves confeſs, ſav'd by the bravery of two *Engliſh* Regiments. The Prince of *Condé* was ſoon after ſent to command; but he could not with all his courage, skill and reputation, raiſe their fallen Spirits, nor preſerve his Army any other way, than by lodging them in a Camp near *Schleſtadt*, ſo fortify'd by Art and Nature that it could not be forc'd. SECT. 28.

To theſe we may add ſome Examples of our own. In our late War the *Scots* Foot, whether Friends or Enemys, were much inferior to thoſe of the Parliament, and their Horſe eſteem'd as nothing. Yet in the year 1639 and 1640, the King's Army, tho very numerous, excellently arm'd and mounted, and in appearance able to conquer many ſuch Kingdoms as *Scotland*, being under the conduct of Courtiers, and affected as men uſually are towards thoſe that uſe them ill, and ſeek to deſtroy them, they could never reſiſt a wretched Army commanded by *Leven*; but were ſhamefully beaten at *Newborn*, and left the Northern Countys to be ravag'd by them.

When *Van Tromp* ſet upon *Blake* in *Foleſton-Bay*, the Parliament had not above thirteen Ships againſt threeſcore, and not a man that had ever ſeen any other fight at Sea, than between a Merchant-ſhip and a Pirat, to oppoſe the beſt Captain in the world, attended with many others in valor and experience not much inferior to him. Many other difficultys were obſerv'd in the unſetled State: Few Ships, want of Mony, ſeveral Factions, and ſome who to advance particular Intereſts betray'd the Publick. But ſuch was the power of Wiſdom and Integrity in thoſe that ſat at the Helm, and their diligence in chuſing men only for their Merit, was bleſt with ſuch ſucceſs, that in two years our Fleets grew to be as famous as our Land Armys; the Reputation and Power of our Nation roſe to a greater height, than when we poſſeſt the better half of *France*, and the Kings of *France* and *Scotland* were our Priſoners. All the States, Kings and Potentates of *Europe*, moſt reſpectfully, not to ſay ſubmiſſively, ſought our Friendſhip; and *Rome* was more afraid of *Blake* and his Fleet, than they had bin of the great King of *Sweden*, when he was ready to invade *Italy* with a hundred thouſand men. This was the work of thoſe, who, if our Author ſays true, *thought baſely of the publick Concernments*; and believing things might be well enough manag'd by others, minded only

CHAP. II.

their private Affairs. Theſe were the effects of the negligence and ignorance of thoſe, who being ſuddenly advanc'd to Offices, were remov'd before they underſtood the Dutys of them. Theſe Diſeaſes, which proceed from popular corruption and irregularity, were certainly cur'd by the reſtitution of that Integrity, good Order and Stability that accompany divine Monarchy. The Juſtice of the War made againſt *Holland* in the year 1665; the probity of the Gentleman, who without partiality or bribery, choſe the moſt part of the Officers that carry'd it on; the Wiſdom, Diligence and Valor manifeſted in the conduct, and the Glory with which it was ended, juſtifys all that our Author can ſay in its commendation. If any doubt remains, the ſubtilty of making the King of *France* deſire that the *Netherlands* might be an acceſſion to his Crown; the ingenious ways taken by us to facilitate the conqueſt of them; the Induſtry of our Embaſſadors in diverting the *Spaniards* from entring into the War till it was too late to recover the Loſſes ſuſtain'd; the honourable Deſign upon the *Smyrna* Fleet, and our frankneſs in taking the quarrel upon our ſelves, together with the important Figure we now make in *Europe*, may wholly remove it; and in confirmation of our Author's Doctrin, ſhew, that Princes do better perform the Offices that require Wiſdom, Induſtry and Valor, than annual Magiſtrats; and do more ſeldom err in the choice of Officers, than Senats and popular Aſſemblys.

SECT. XXIX.

There is no aſſurance that the Diſtempers of a State ſhall be cur'd by the Wiſdom of a Prince.

BUT, ſays our Author, *the Vertue and Wiſdom of a Prince ſupplys all. Tho he were of a duller underſtanding, by uſe and experience he muſt needs excel all:* Nature, Age, or Sex, are, as it ſeems, nothing to the caſe. A Child as ſoon as he comes to be a King, has experience; the head of a Fool is fill'd with Wiſdom, as ſoon as a Crown is ſet upon it, and the moſt vicious do in a moment become vertuous. This is more ſtrange than that an Aſs being train'd to a Courſe, ſhould outrun the beſt *Arabian* Horſe; or a Hare bred up in an Army, become more ſtrong and fierce than a Lion: for Fortune dos not only ſupply all natural defects in Princes, and correct their vices, but gives them the benefit of uſe and experience when they have none. Some Reaſons and Examples might have bin expected to prove this extraordinary Propoſition: But according to his laudable cuſtom, he is pleas'd to trouble himſelf with neither; and thinks that the impudence of an Aſſertion is ſufficient to make that to paſs, which is repugnant to experience and common ſenſe, as may appear by the following diſcourſe.

I will not inſiſt upon terms; for tho *duller underſtanding* ſignifys nothing, in as much as no underſtanding is dull, and a man is ſaid to be dull only becauſe he wants it; but preſuming he means little underſtanding, I ſhall ſo take it. This defect may poſſibly be repair'd in time; but to conclude it muſt be ſo, is abſurd, for no one has this uſe and experience when he begins to reign. At that time many Errors may be committed to the ruin of himſelf or people, and many have periſh'd even in their beginning. *Edward* the fifth and ſixth of *England*, *Francis* the ſecond of

France, and divers other Kings have dy'd in the beginning of their youth: *Charles* the ninth liv'd only to add the furys of youth to the follys of his childhood; and our *Henry* the ſecond, *Edward* the ſecond, *Richard* the ſecond, and *Henry* the ſixth, ſeem to have bin little wiſer in the laſt, than in the firſt year of their Reign or Life. The preſent Kings of *Spain*, *France*, and *Sweden*, came to the Crowns they wear before the ſixth year of their Age; and if they did then ſurpaſs all annual Magiſtrats in Wiſdom and Valor, it was by a peculiar Gift of God, which, for any thing we know, is not given to every King, and it was not Uſe and Experience that made them to excel. If it be pretended that this Experience, with the Wiſdom that it gives, comes in time and by degrees; I may modeſtly ask, what time is requir'd to render a Prince excellent in Wiſdom who is a Child or a Fool? and who will give ſecurity that he ſhall live to that time, or that the Kingdom ſhall not be ruin'd in the time of his folly? I may alſo doubt how our Author, who concludes that every King in time muſt needs become excellent in Wiſdom, can be reconcil'd to *Solomon*, who in preferring a wiſe Child before an old and fooliſh King that will not be advis'd, ſhews that an old King may be a Fool, and he that will not be advis'd is one. Some are ſo naturally brutiſh and ſtupid, that neither education nor time will mend them. 'Tis probable that *Solomon* took what care he could to inſtruct his only Son *Rehoboam*; but he was certainly a Fool at forty years of age, and we have no reaſon to believe that he deſerv'd a better name. He ſeems to have bin the very Fool his Father intended, who tho bray'd in a mortar would never leave his folly: He would not be advis'd, tho the hand of God was againſt him; ten Tribes revolted from him, and the City and Temple was pillag'd by the *Egyptians*. Neither experience nor afflictions could mend him, and he is call'd to this day by his own Countrymen *Stultitia Gentium*. I might offend tender ears, if I ſhould alledg all the Examples of Princes mention'd in Hiſtory, or known in our own Age, who have liv'd and dy'd as fooliſh and incorrigible as he: but no man, I preſume, will be ſcandaliz'd if I ſay, that the ten laſt Kings of *Meroveus* his Race, whom the *French* Hiſtorians call *Les Roys faineants*, were ſo far from excelling other men in underſtanding, that they liv'd and dy'd more like beaſts than men. Nay, the Wiſdom and Valor of *Charles Martel* expir'd in his Grandchild *Charles* the Great; and his Poſterity grew to be ſo ſottiſh, that the *French* Nation muſt have periſh'd under their conduct, if the Nobility and People had not rejected them, and plac'd the Crown upon a more deſerving Head. SECT. 29.

This is as much as is neceſſary to be ſaid to the general Propoſition; for it is falſe, if it be not always true; and no concluſion can be made upon it. But I need not be ſo ſtrict with our Author, there being no one ſound part in his Aſſertion. Many Children come to be Kings when they have no experience; and die, or are depos'd, before they can gain any. Many are by nature ſo ſottiſh that they can learn nothing: Others falling under the power of Women, or corrupt Favorites and Miniſters, are perſuaded and ſeduc'd from the good ways to which their own natural underſtanding or experience might lead them; the Evils drawn upon themſelves or their Subjects, by the Errors committed in the time of their ignorance, are often grievous, and ſometimes irreparable, tho they ſhould be made wiſe by time and experience. A perſon of royal Birth and excellent Wit, was ſo ſenſible of this as to tell me, " That the condition of " Kings was moſt miſerable, in as much as they never heard Truth till

" they

CHAP. II.

" they were ruin'd by Lies; and then every one was ready to tell it to " them, not by way of advice, but reproach, and rather to vent their " own ſpite, than to ſeek a remedy to the evils brought upon them and " the people. Others attain to Crowns when they are of full Age, and have experience as Men, tho none as Kings; and therefore are apt to commit as great miſtakes as Children: And upon the whole matter all the Hiſtorys of the world ſhew, that inſtead of this profound Judgment and incomparable Wiſdom which our Author generally attributes to all Kings, there is no ſort of men that do more frequently and intirely want it.

But tho Kings were always wiſe by nature, or made to be ſo by experience, it would be of little advantage to Nations under them, unleſs their Wiſdom were pure, perfect, and acompany'd with Clemency, Magnanimity, Juſtice, Valor and Piety. Our Author himſelf durſt hardly have ſaid, that theſe Vertues or Graces are gain'd by Experience, or annex'd by God to any rank of Men or Familys. He gives them where he pleaſes without diſtinction. We ſometimes ſee thoſe upon Thrones, who by God and Nature ſeem to have bin deſign'd for the moſt ſordid Offices; and thoſe have bin known to paſs their lives in meanneſs and poverty, who had all the Qualitys that could be deſir'd in Princes. There is likewiſe a kind of ability to diſpatch ſome ſort of Affairs, that Princes who continue long in a Throne may to a degree acquire or increaſe: Some men take this for Wiſdom, but K. *James* more rightly call'd it by the name of *Kingcraft*; and as it principally conſiſts in Diſſimulation, and the arts of working upon mens Paſſions, Vanitys, private Intereſts or Vices, to make them for the moſt part inſtruments of Miſchief, it has the advancement or ſecurity of their own Perſons for its object, is frequently exercis'd with all the exceſſes of Pride, Avarice, Treachery and Cruelty; and no men have bin ever found more notoriouſly to deflect from all that deſerves praiſe in a Prince, or a Gentleman, than thoſe that have moſt excel'd in it. *Pharaſmenes* King of *Iberia*, is recorded by *Tacitus* to have bin well vers'd in this Science. His Brother *Mithradates* King of *Armenia* had marry'd his Daughter, and given his own Daughter to *Rhadamiſtus* Son of *Pharaſmenes*. He had ſome Conteſts with *Mithradates*, but by the help of theſe mutual Alliances, nearneſs of Blood, the diligence of *Rhadamiſtus*, and an Oath, ſtrengthen'd with all the Ceremonys that amongſt thoſe Nations were eſteem'd moſt ſacred, not to uſe Arms or Poiſon againſt him, all was compos'd; and by this means getting him into his power, he ſtifled him with a great weight of clothes thrown upon him, kill'd his Children, and not long after his own Son *Rhadamiſtus* alſo. *Louis* the eleventh of *France*, *James* the third of *Scotland*, *Henry* the ſeventh of *England*, were great Maſters of theſe Arts; and thoſe who are acquainted with Hiſtory, will eaſily judg how happy Nations would be if all Kings did in time certainly learn them.

Tacit. Ann. l. 11, 12.

Our Author, as a farther teſtimony of his Judgment, having ſaid that Kings muſt needs excel others in Underſtanding, and grounded his Doctrin upon their profound Wiſdom, imputes to them thoſe *baſe and panick fears* which are inconſiſtent with it, or any royal Vertue: and to carry the point higher, tells us, *There is no Tyrant ſo barbarouſly wicked, but his own reaſon and ſenſe will tell him, that tho he be a God, yet he muſt die like a Man; and that there is not the meaneſt of his Subjects, but may find a means to revenge himſelf of the Injurys offer'd him:* and from thence concludes, that *there is no ſuch Tyranny as that of a Multitude which is ſubject to no*

† *ſuch*

ſach fears. But if there be ſuch a thing in the World, as a barbarous and wicked Tyrant, he is ſomething different from a King, or the ſame; and his Wiſdom is conſiſtent or inconſiſtent with Barbarity, Wickedneſs, and Tyranny. If there be no difference, the praiſes he gives, and the rights he aſcribes to the one belong alſo to the other: and the excellency of Wiſdom may conſiſt with Barbarity, Wickedneſs, Tyranny, and the panick fears that accompany them; which hitherto have bin thought to comprehend the utmoſt exceſſes of Folly and Madneſs; and I know no better teſtimony of the truth of that Opinion, than that Wiſdom always diſtinguiſhing good from evil, and being ſeen only in the rectitude of that diſtinction, in following and adhering to the good, rejecting that which is evil, preferring ſafety before danger, happineſs before miſery, and in knowing rightly how to uſe the means of attaining or preſerving the one, and preventing or avoiding the other, there cannot be a more extravagant deviation from Reaſon, than for a man, who in a private condition might live ſafely and happily, to invade a Principality: or if he be a Prince, who by governing with Juſtice and Clemency might obtain the inward ſatisfaction of his own Mind, hope for the bleſſing of God upon his juſt and vertuous Actions, acquire the love and praiſes of men, and live in ſafety and happineſs amongſt his ſafe and happy Subjects, to fall into that Barbarity, Wickedneſs, and Tyranny, which brings upon him the diſpleaſure of God, and deteſtation of men, and which is always attended with thoſe baſe and panick fears, that comprehend all that is ſhameful and miſerable. This being perceiv'd by *Machiavel*, he could not think that any man in his ſenſes would not rather be a *Scipio* than a *Ceſar*; or if he came to be a Prince, would not rather chuſe to imitate *Ageſilaus*, *Timoleon*, or *Dion*, than *Nabis*, *Phalaris*, or *Dionyſius*; and imputes the contrary choice to madneſs. Nevertheleſs 'tis too well known that many of our Author's profound wiſe men in the depth of their Judgment, made perfect by uſe and experience, have fallen into it. SECT. 29. Diſcorſ. ſopra T. Liv. l. 1. c. 10.

If there be a difference between this barbarous wicked Tyrant, and a King, we are to examin who is the Tyrant, and who the King; for the name confer'd or aſſum'd cannot make a King, unleſs he be one. He who is not a King, can have no Title to the rights belonging to him who is truly a King: ſo that a People who find themſelves wickedly and barbarouſly oppreſt by a Tyrant, may deſtroy him and his Tyranny without giving offence to any King.

But 'tis ſtrange that *Filmer* ſhould ſpeak of the Barbarity and Wickedneſs of a Tyrant, who looks upon the World to be the Patrimony of one man; and for the foundation of his Doctrin, aſſerts ſuch a power in every one that makes himſelf maſter of any part, as cannot be limited by any Law. His Title is not to be queſtion'd; Uſurpation and Violence confer an inconteſtable Right: the exerciſe of his Power is no more to be diſputed than the Acquiſition: his will is a Law to his Subjects; and no Law can be impos'd by them upon his Conduct. For if theſe things be true, I know not how any man could ever be call'd a Tyrant, that name having never bin given to any unleſs for uſurping a Power that did not belong to him, or an unjuſt exerciſe of that which had bin confer'd upon him, and violating the Laws which ought to be a rule to him. 'Tis alſo hard to imagin how any man can be call'd barbarous and wicked, if he be oblig'd by no Law but that of his own Pleaſure; for we have no other notion of wrong, than that it is a breach of the Law which determins what is right. If the lives and goods of Subjects depend upon the Will

CHAP. II.

of the Prince, and he in his profound Wiſdom preſerve them only to be beneficial to himſelf, they can have no other right than what he gives, and without injuſtice may retain when he thinks fit: If there be no wrong, there can be no juſt revenge; and he that pretends to ſeek it, is not a free man vindicating his Right, but a perverſe ſlave riſing up againſt his Maſter. But if there be ſuch a thing as a barbarous and wicked Tyrant, there muſt be a rule relating to the acquiſition and exerciſe of the Power, by which he may be diſtinguiſh'd from a juſt King; and a Law ſuperior to his Will, by the violation of which he becomes barbarous and wicked.

Tho our Author ſo far forgets himſelf, to confeſs this to be true, he ſeeks to deſtroy the fruits of it by ſuch flattery as comprehends all that is moſt deteſtable in Profaneneſs and Blaſphemy, and gives the name of Gods to the moſt execrable of men. He may by ſuch language deſerve the name of *Heylin*'s Diſciple; but will find few among the Heathens ſo baſely ſervile, or ſo boldly impious. Tho *Claudius Ceſar* was a drunken ſot, and tranſported with the extravagance of his Fortune, he deteſted the impudence of his Predeceſſor *Caligula*, (who affected that Title) and in his Reſcript to the Procurator of *Judea*, gives it no better name than *turpem Caii inſaniam*. For this reaſon it was rejected by all his Pagan Succeſſors, who were not as furiouſly wicked as he: yet *Filmer* has thought fit to renew it, for the benefit of Mankind, and the Glory of the Chriſtian Religion.

I know not whether theſe extreme and barbarous Errors of our Author are to be imputed to wickedneſs or madneſs; or whether, to ſave the pains of a diſtinction, they may not rightly be ſaid to be the ſame thing: but nothing leſs than the exceſs of both could induce him to attribute any thing of good to the fears of a Tyrant, ſince they are the chief cauſes of all the miſchiefs he dos. *Tertullian* ſays they are *Metu quam furore ſæviores*; and *Tacitus*, ſpeaking of a moſt wicked King, ſays, that he did *Sævitiam ignaviæ obtendere:* and we do not more certainly find that Cowards are the cruelleſt of men, than that wickedneſs makes them Cowards; that every man's fears bear a proportion with his guilt, and with the number, vertue, and ſtrength of thoſe he has offended. He who uſurps a power over all, or abuſes a Truſt repos'd in him by all, in the higheſt meaſure offends all; he fears and hates thoſe he has offended, and to ſecure himſelf, aggravates the former Injurys: When theſe are publick, they beget a univerſal Hatred, and every man deſires to extinguiſh a Miſchief that threatens ruin to all. This will always be terrible to one that knows he has deſerv'd it; and when thoſe he dreads are the body of the People, nothing but a publick deſtruction can ſatisfy his rage, and appeaſe his fears.

I wiſh I could agree with *Filmer*, in exempting multitudes from fears; for they having ſeldom committed any injuſtice, unleſs thro fear, would, as far as human fragility permits, be free from it. Tho the *Attick Oſtraciſm* was not an extreme Puniſhment, I know nothing uſually practis'd in any Commonwealth, that did ſo much ſavor of injuſtice: but it proceeded ſolely from a fear that one man, tho in appearance vertuous, when he came to be rais'd too much above his fellow-Citizens, might be tempted to invade the publick Liberty. We do not find that the *Athenians*, or any other free Citys, ever injur'd any man, unleſs thro ſuch a jealouſy, or the perjury of Witneſſes, by which the beſt Tribunals that ever were, or can be eſtabliſh'd in the world, may be miſled; and no injuſtice could

be

be apprehended from any, if they did not fall into ſuch fears. SECT. 30.

But tho Multitudes may have fears as well as Tyrants, the Cauſes and Effects of them are very different. A People, in relation to domeſtick Affairs, can deſire nothing but Liberty, and neither hate or fear any but ſuch as do, or would, as they ſuſpect, deprive them of that Happineſs: Their endeavors to ſecure that ſeldom hurt any except ſuch as invade their Rights; and if they err, the miſtake is for the moſt part diſcover'd before it produce any miſchief; and the greateſt that ever came that way, was the death of one, or a few men. Their Hatred and deſire of Revenge can go no farther than the ſenſe of the Injury receiv'd or fear'd, and is extinguiſh'd by the death or baniſhment of the Perſons; as may be gather'd from the examples of the *Tarquins*, *Decemviri*, *Caſſius*, *Melius*, and *Manlius Capitolinus*. He therefore that would know whether the hatred and fear of a Tyrant, or of a People, produces the greater miſchiefs, needs only to conſider, whether it be better that the Tyrant deſtroy the People, or that the People deſtroy the Tyrant: or at the worſt, whether one that is ſuſpected of affecting the Tyranny ſhould periſh, or a whole People, amongſt whom very many are certainly innocent; and experience ſhows that ſuch are always firſt ſought out to be deſtroy'd for being ſo: Popular furys or fears, how irregular or unjuſt ſoever they may be, can extend no farther; general Calamitys can only be brought upon a People by thoſe who are enemys to the whole Body, which can never be the Multitude, for they are that Body. In all other reſpects, the fears that render a Tyrant cruel, render a People gentle and cautious; for every ſingle man knowing himſelf to be of little power, not only fears to do injuſtice becauſe it may be reveng'd upon his Perſon, by him, or his Friends, Kindred and Relations, that ſuffers it; but becauſe it tends to the overthrow of the Government, which comprehends all publick and private Concernments, and which every man knows cannot ſubſiſt unleſs it be ſo eaſy and gentle, as to be pleaſing to thoſe who are the beſt, and have the greateſt power: and as the publick Conſiderations divert them from doing thoſe Injurys that may bring immediate prejudice to the Publick, ſo there are ſtrict Laws to reſtrain all ſuch as would do private Injurys. If neither the People nor the Magiſtrats of *Venice*, *Switzerland*, and *Holland*, commit ſuch extravagances as are uſual in other places, it dos not perhaps proceed from the temper of thoſe Nations different from others, but from a knowledg, that whoſoever offers an injury to a private perſon, or attempts a publick miſchief, is expos'd to the impartial and inexorable Power of the Law; whereas the chief work of an abſolute Monarch is to place himſelf above the Law, and thereby rendring himſelf the Author of all the evils that the People ſuffer, 'tis abſurd to expect that he ſhould remove them.

SECT. XXX.

A Monarchy cannot be well regulated, unleſs the Powers of the Monarch are limited by Law.

OUR Author's next ſtep is not only to reject Popular Governments, but all ſuch Monarchys as are not abſolute: *for if the King*, ſays he, *admits the People to be his Companions, he leaves to be a King.* This

CHAP. II. is the language of *French* Lackeys, Valet de Chambre's, Taylors, and others like them in Wiſdom, Learning and Policy, who when they fly to *England* for fear of a well deſerv'd Gally, Gibbet, or Wheel, are ready to ſay, *Il faut que le Roy ſoit abſolu, autrement il n'eſt point Roy.* And finding no better men to agree with *Filmer* in this ſublime Philoſophy, I may be pardon'd if I do not follow them, till I am convinc'd in theſe enſuing points.

1. It ſeems abſurd to ſpeak of Kings admitting the Nobility or People to part of the Government: for tho there may be, and are Nations without Kings, yet no man can conceive a King without a People. Theſe muſt neceſſarily have all the power originally in themſelves; and tho Kings may and often have a power of granting Honors, Immunitys, and Privileges to private Men or Corporations, he dos it only out of the publick Stock, which he is entruſted to diſtribute; but can give nothing to the People, who give to him all that he can rightly have.

2. 'Tis ſtrange that he who frequently cites *Ariſtotle* and *Plato*, ſhould unluckily acknowledg ſuch only to be Kings as they call Tyrants, and deny the name of King to thoſe, who in their opinion are the only Kings.

3. I cannot underſtand why the Scripture ſhould call thoſe Kings whoſe Powers were limited, if they only are Kings who are abſolute;
Deut. 17. or why *Moſes* did appoint that the power of Kings in *Iſrael* ſhould be limited (if they reſolv'd to have them) if that limitation deſtroy'd the being of a King.

4. And laſtly, how he knows that in the Kingdoms which have a ſhew of Popularity, the Power is wholly in the King.

The firſt point was prov'd when we examin'd the beginning of Monarchys, and found it impoſſible that there could be any thing of juſtice in them, unleſs they were eſtabliſh'd by the common conſent of thoſe who were to live under them; or that they could make any ſuch eſtabliſhment, unleſs the right and power were in them.

Secondly, Neither *Plato* nor *Ariſtotle* acknowledg either reaſon or juſtice in the power of a Monarch, unleſs he has more of the Vertues conducing to the good of the Civil Society than all thoſe who compoſe it; and employ them for the publick advantage, and not to his own pleaſure and profit, as being ſet up by thoſe who ſeek their own good, for no other reaſon than that he ſhould procure it. To this end a Law is ſet as a rule to him, and the beſt men, that is ſuch as are moſt like to himſelf,
Plat. de Leg. Ariſt. Polit. made to be his Aſſiſtants, becauſe, ſay they, *Lex eſt mens ſine affectu, & quaſi Deus*; whereas the beſt of men have their affections and paſſions, and are ſubject to be miſled by them: Which ſhews, that as the Monarch is not for himſelf nor by himſelf, he dos not give, but receive power, nor admit others to the participation of it, but is by them admitted to what he has. Whereupon they conclude, that to prefer the abſolute power of a man, as in thoſe Governments which they call *Barbarorum regna*, before the regular Government of Kings juſtly exerciſing a power inſtituted by Law, and directed to the publick good, is to chuſe rather to be ſubject to the luſt of a Beaſt, than to be govern'd by a God. And becauſe ſuch a choice can only be made by a Beaſt, I leave our Author to find a deſcription of himſelf in their Books, which he ſo often cites.

But if *Ariſtotle* deſerves credit, the Princes who reign for themſelves and not for the People, preferring their own pleaſure or profit before the publick, become Tyrants; which in his language is Enemys to God and

Man. On this account *Boccalini* introduces the Princes of *Europe* raiſing a mutiny againſt him in *Parnaſſus*, for giving ſuch definitions of Tyrants as they ſaid comprehended them all; and forcing the poor Philoſopher to declare by a new definition, that * *Tyrants were certain men of antient times whoſe race is now extinguiſh'd.* But with all his Wit and Learning he could not give a reaſon why thoſe who do the ſame things that render'd the antient Tyrants deteſtable, ſhould not be ſo alſo in our days. SECT. 30.

In the third place, The Scriptures declare the neceſſity of ſetting bounds to thoſe who are plac'd in the higheſt dignitys. *Moſes* ſeems to have had as great abilitys as any man that ever liv'd in the world; but he alone was not able to bear the weight of the Government, and therefore God appointed Seventy choſen men to be his aſſiſtants. This was a perpetual Law to *Iſrael*; and as no King was to have more power than *Moſes*, or more abilitys to perform the Dutys of his Office, none could be exempted from the neceſſity of wanting the like helps. Our Author therefore muſt confeſs that they are Kings who have them, or that Kingly Government is contrary to the Scriptures. When God by *Moſes* gave liberty to his People to make a King, he did it under theſe conditions. *He muſt be one of their Brethren: They muſt chuſe him: he muſt not multiply Gold, Silver, Wives, or Horſes: he muſt not lift up his Heart above his Brethren.* And *Joſephus* paraphraſing upon the place, ſays, *He ſhall do nothing without the advice of the* Sanhedrin; *or if he do, they ſhall oppoſe him.* This agrees with the confeſſion of *Zedekiah* to the Princes (which was the *Sanhedrin*) *The King can do nothing without you*; and ſeems to have bin in purſuance of the Law of the Kingdom, which was written in a Book, and laid up before the Lord; and could not but agree with that of *Moſes*, unleſs they ſpake by different Spirits, or that the Spirit by which they did ſpeak was ſubject to error or change: and the whole ſeries of God's Law ſhews, that the Pride, Magnificence, Pomp and Glory uſurp'd by their Kings was utterly contrary to the will of God. They did lift up their hearts above their Brethren, which was forbidden by the Law. All the Kings of *Iſrael*, and moſt of the Kings of *Judah*, utterly rejected it; and every one of them did very much depart from the obſervation of it. I will not deny that the People in their inſtitution of a King intended they ſhould do ſo: they had done it themſelves, and would have a King that might uphold them in their diſobedience; they were addicted to the Idolatry of their accurſed Neighbours, and deſir'd that Government by which it was maintain'd amongſt them. In doing this they did not reject *Samuel*; but they rejected God that he ſhould not reign over them. They might perhaps believe that unleſs their King were ſuch as the Law did not permit, he would not perform what they intended; or that the name of King did not belong to him, unleſs he had a power that the Law deny'd. But ſince God and his Prophets give the name of King to the chief Magiſtrate, endow'd with a power that was reſtrain'd within very narrow limits, whom they might without offence ſet up, we alſo may ſafely give the ſame to thoſe of the ſame nature, whether it pleaſe *Filmer* or not.

Deut. 17.

Antiq. Jud.

Jer. 38.

4. The practice of moſt Nations, and (I may truly ſay) of all that deſerve imitation, has bin as directly contrary to the abſolute power of one man as their Conſtitutions: or if the original of many Governments lie hid in

* Che I Tiranni furono certi h uomini del tempo antico de i quali hoggidi ſi e perduta la razza. Boccal. Rag. de Parn.

the

CHAP. II. the impenetrable darkneſs of Antiquity, their progreſs may ſerve to ſhew the intention of the Founders. *Ariſtotle* ſeems to think that the firſt Monarchs having bin choſen for their Vertue, were little reſtrain'd in the exerciſe of their Power; but that they or their Children falling into Corruption and Pride, grew odious; and that Nations did on that account either aboliſh their Authority, or create Senats and other Magiſtrats, who having part of the Power, might keep them in order. The *Spartan* Kings were certainly of this nature; and the *Perſian*, till they conquer'd *Babylon*. Nay, I may ſafely ſay, that neither the Kings which the frantick people ſet up in oppoſition to the Law of God, nor thoſe of the bordering Nations, whoſe example they choſe to follow, had that abſolute power which our Author attributes to all Kings as inſeparable from the name. *Achiſh* the *Philiſtin* lov'd and admir'd *David*; he look'd upon him as an Angel of God, and promis'd that he ſhould be the keeper of his Head for ever: but when the Princes ſuſpected him, and ſaid *he ſhall not go down with us to Battel*, he was oblig'd to diſmiſs him. This was not the language of Slaves, but of thoſe who had a great part in the Government; and the King's ſubmiſſion to their will, ſhows that he was more like to the Kings of *Sparta*, than to an abſolute Monarch, who dos whatever pleaſes him. I know not whether the *Spartans* were deſcended from the *Hebrews*, as ſome think; but their Kings were under a regulation much like that of the 17*th* of *Deuter.* tho they had two: Their Senate of twenty eight, and the *Ephori*, had a power like to that of the *Sanhedrin*; and by them Kiugs were condemn'd to fines, impriſonment, baniſhment, and death, as appears by the examples of *Pauſanias*, *Cleonymus*, *Leonidas*, *Agis*, and others. The *Hebrew* Diſciplin was the ſame; *Reges Davidicæ ſtirpis*, ſays *Maimonides*, *judicabant & judicabantur.* They gave teſtimony in judgment when they were call'd, and teſtimony was given againſt them. Whereas the Kings of *Iſrael*, as the ſame Author ſays, were *ſuperbi, corde elati, & ſpertores legis, nec judicabant, nec judicabantur*; proud, inſolent, and contemners of the Law, who would neither judg, nor ſubmit to judgment as the Law commanded. But the Fruits they gather'd were ſutable to the Seed they had ſown, and their Crimes were not left unpuniſh'd: they who deſpis'd the Law were deſtroy'd without Law; and when no ordinary courſe could be taken againſt them for their exceſſes, they were overthrown by force, and the Crown within the ſpace of few years was tranſported into nine ſeveral Familys, with the utter extirpation of thoſe that had poſſeſt it. On the other hand, there never was any Sedition againſt the *Spartan* Kings; and after the moderate Diſciplin, according to which they liv'd, was eſtabliſh'd, none of them dy'd by the hands of their Subjects, except only two, who were put to death in a way of Juſtice: the Kingdom continu'd in the ſame races, till *Cleomenes* was defeated by *Antigonus*, and the Government overthrown by the *Macedonians*. This gave occaſion to thoſe beſtial Tyrants *Nabis* and *Machanidas* to ſet up ſuch a Government as our Author recommends to the World, which immediately brought deſtruction upon themſelves, and the whole City. The *Germans*, who pretended to be deſcended from the *Spartans*, had the like Government. Their Princes according to their merit had the *credit of perſuading, not the power of commanding*; and the queſtion was not what part of the Government they would allow to the Nobility and People, but what the Nobility and People would give to their Princes: and 'tis not much material to our preſent diſpute, whether they learnt this from ſome obſcure knowledg of

1 Sam. 29.

More Nevochim.

Ibid.

Tacit. de morib. Germ.

the Law which God gave to his People, or whether led by the light of Reaſon, which is alſo from God, they diſcover'd what was altogether conformable to that Law. Whoever underſtands the affairs of *Germany*, knows that the preſent Emperors, notwithſtanding their haughty Title, have a power limited as in the days of *Tacitus*. If they are good and wiſe, they may perſuade; but they can command no farther than the Law allows. They do not admit the Princes, Noblemen, and Citys to the power which they all exerciſe in their general Diets, and each of them within their own Precincts; but they exerciſe that which has bin by publick conſent beſtow'd upon them. All the Kingdoms peopled from the North obſerv'd the ſame rules. In all of them the powers were divided between the Kings, the Nobility, Clergy, and Commons; and by the Decrees of Councils, Diets, Parliaments, Cortez, and Aſſemblys of Eſtates, Authority and Liberty were ſo balanc'd, that ſuch Princes as aſſum'd to themſelves more than the Law did permit, were ſeverely puniſh'd; and thoſe who did by force or fraud invade Thrones, were by force thrown down from them. SECT. 30.

This was equally beneficial to Kings and People. The Powers, as *Theopompus* King of *Sparta* ſaid, were moſt ſafe when they were leaſt envy'd and hated. *Lewis* the *11th* of *France* was one of the firſt that broke this Golden Chain; and by more ſubtil Arts than had bin formerly known, ſubverted the Laws, by which the fury of Kings had bin reſtrain'd, and taught others to do the like; tho all of them have not ſo well ſav'd themſelves from puniſhment. *James* the third of *Scotland* was one of his moſt apt Scholars; and * *Buchanan* in his Life ſays, That *he was precipitated into all manner of Infamy by men of the moſt abject condition; that the corruption of thoſe times, and the ill Example of neighbouring Princes, were conſiderable motives to pervert him: for* Edward *the fourth of* England, Charles *of* Burgundy, Lewis *the 11th of* France, *and* John *the ſecond of* Portugal, *had already laid the Foundations of Tyranny in thoſe Countrys; and* Richard *the third was then moſt cruelly exerciſing the ſame in the Kingdom of* England.

This could not have bin, if all the Power had always bin in Kings, and neither the People nor the Nobility had ever had any: For no man can be ſaid to gain that which he and his Predeceſſors always poſſeſt, or to take from others that which they never had; nor to ſet up any ſort of Government, if it had bin always the ſame. But the aforeſaid *Lewis* the *11th* did aſſume to himſelf a Power above that of his Predeceſſors; and *Philip de Commines* ſhews the ways by which he acquir'd it, with the miſerable effects of his Acquiſition both to himſelf and to his people: Modern Authors obſerve that the change was made by him, and for that reaſon he is ſaid by *Mezeray*, and others, *to have brought thoſe Kings out of* †*Guardianſhip:* they were not therefore ſo till he emancipated them. Nevertheleſs this Emancipation had no reſemblance to the unlimited Power of which our Author dreams. The General Aſſemblys of Eſtates were often held long after his death, and continu'd in the exerciſe of the Sovereign Power of the Nation. *Davila*, ſpeaking of the General Aſ- Hiſt. delle Guerre Civ.

* Ab hominibus infimæ ſortis in omnia ſimul vitia eſt præceps datus: tempora etiam corrupta & vicinorum regum exempla non parum ad eum evertendum juverunt: Nam & Edvardus in Anglia, Carolus in Burgundia, Ludovicus undecimus in Gallia, Joannes ſecundus in Luſitania, tyrannidis fundamenta jecerunt: Richardus tertius in Anglia eam immaniſſime exercuit. Hiſt. Scot. l. 12.

† Davoir mis les Roys hors de page.

ſembly

CHAP. II

Thuan. Hiſt. l. 1.

ſembly held at *Orleans* in the time of *Francis* the ſecond, aſſerts the whole Power of the Nation to have bin in them. *Monſieur de Thou* ſays the ſame thing, and adds, that the King dying ſuddenly, the Aſſembly continu'd even at the deſire of the Council, in the exerciſe of that Power, till they had ſettled the Regency, and other Affairs of the higheſt importance, according to their own judgment. *Hottoman*, a Lawyer of that Time and Nation, famous for his Learning, Judgment, and Integrity, having diligently examin'd the antient Laws and Hiſtorys of that Kingdom, diſtinctly proves that the *French* Nation never had any Kings but of their own chuſing; that their Kings had no Power except what was confer'd upon them; and that they had bin remov'd, when they exceſſively abus'd or render'd themſelves unworthy of that Truſt. This is ſufficiently clear by the forecited examples of *Pharamond*'s Grandchildren, and the degenerated Races of *Meroveus* and *Pepin*; of which many were depos'd, ſome of the neareſt in Blood excluded; and when their Vices ſeem'd to be incorrigible, they were wholly rejected. All this was done by virtue of that rule which they call the *Salique Law*: And tho ſome of our Princes pretending to the Inheritance of that Crown by marrying the Heirs General, deny'd that there was any ſuch thing, no man can ſay that for the ſpace of above twelve hundred years, Females, or their Deſcendents, who are by that Law excluded, have ever bin thought to have any right to the Crown: And no Law, unleſs it be explicitely given by God, can be of greater Authority than one which has bin in force for ſo many Ages. What the beginning of it was is not known: But *Charles* the ſixth receding from this Law, and thinking to diſpoſe of the Succeſſion otherwiſe than was ordain'd by it, was eſteem'd mad, and all his Acts reſcinded. And tho the Reputation, Strength and Valor of the *Engliſh*, commanded by *Henry* the fifth, one of the braveſt Princes that have ever bin in the world, was terrible to the *French* Nation; yet they oppos'd him to the utmoſt of their power, rather than ſuffer that Law to be broken. And tho our Succeſs under his Conduct was great and admirable; yet ſoon after his death, with the expence of much Blood and Treaſure, we loſt all that we had on that ſide, and ſuffer'd the Penalty of having unadviſedly enter'd into that Quarrel. By virtue of the ſame Law, the Agreement made by King *John* when he was Priſoner at *London*, by which he had alienated part of that Dominion, as well as that of *Francis* the firſt, concluded when he was under the ſame Circumſtances at *Madrid*, were reputed null; and upon all occaſions that Nation has given ſufficient teſtimony, that the Laws by which they live are their own, made by themſelves, and not impos'd upon them. And 'tis as impoſſible for them who made and depos'd Kings, exalted or depreſt reigning Familys, and preſcrib'd Rules to the Succeſſion, to have receiv'd from their own Creatures the Power, or part of the Government they had, as for a man to be begotten by his own Son. Nay, tho their Conſtitution was much chang'd by *Lewis* the *11th*, yet they retain'd ſo much of their antient Liberty, that in the laſt Age, when the Houſe of *Valois* was as much deprav'd as thoſe of *Meroveus* and *Pepin* had bin, and *Henry* the third by his own Leudneſs, Hypocriſy, Cruelty and Impurity, together with the baſeneſs of his Minions and Favorites, had render'd himſelf odious and contemptible to the Nobility and People; the great Citys, Parliaments, the greater and (in political matters) the ſounder part of the Nation declar'd him to be fallen from the Crown, and purſu'd him to the death, tho the blow was given by the hand of a baſe and half-diſtracted Monk.

Hottom. Franco-Gallia.

Henry

Henry of *Bourbon* was without controverſy the next Heir; but neither the Nobility nor the People, who thought themſelves in the Government, would admit him to the Crown, till he had given them ſatisfaction that he would govern according to their Laws, by abjuring his Religion which they judg'd inconſiſtent with them. SECT. 30.

The later Commotions in *Paris*, *Bourdeaux*, and other places, together with the Wars for Religion, ſhew, that tho the *French* do not complain of every Grievance, and cannot always agree in the defence and vindication of their violated Libertys, yet they very well underſtand their Rights: and that, as they do not live by, or for the King, but he reigns by, and for them; ſo their Privileges are not from him, but that his Crown is from them; and that, according to the true Rule of their Government, he can do nothing againſt their Laws, or if he do, they may oppoſe him.

The Inſtitution of a Kingdom is the act of a free Nation; and whoever denies them to be free, denies that there can be any thing of right in what they ſet up. That which was true in the beginning is ſo, and muſt be ſo for ever. This is ſo far acknowledg'd by the higheſt Monarchs, that in a Treatiſe publiſh'd in the year 1667, by Authority of the preſent King of *France*, to juſtify his pretenſions to ſome part of the *Low Countrys*, notwithſtanding all the Acts of himſelf, and the King of *Spain* to extinguiſh them, it is ſaid, * *That Kings are under the happy inability to do any thing againſt the Laws of their Country.* And tho perhaps he may do things contrary to Law, yet he grounds his Power upon the Law; and the moſt able and moſt truſted of his Miniſters declare the ſame. About the year 1660, the Count *D' Aubijoux*, a man of eminent quality in *Languedoc*, but averſe to the Court, and hated by Cardinal *Mazarin*, had bin try'd by the Parliament of *Tholouſe* for a Duel, in which a Gentleman was kill'd; and it appearing to the Court (then in that City) that he had bin acquitted upon forg'd Letters of Grace, falſe Witneſſes, powerful Friends, and other undue means, *Mazarin* deſir'd to bring him to a new Trial: but the Chancellor *Seguier* told the Queen-Mother it could not be; for the Law did not permit a man once acquitted to be again queſtion'd for the ſame Fact; and that if the courſe of the Law were interrupted, neither the Salique Law, nor the ſucceſſion of her Children, or any thing elſe could be ſecure in *France*.

This is farther prov'd by the Hiſtorys of that Nation. The Kings of *Meroveus* and *Pepin*'s Races, were ſuffer'd to divide the Kingdom amongſt their Sons; or, as *Hottoman* ſays, the Eſtates made the Diviſion, and allotted to each ſuch a part as they thought fit. But when this way was found to be prejudicial to the Publick, an Act of State was made in the time of *Hugh Capet*, by which it was ordain'd, that for the future the Kingdom ſhould not be diſmembred; which Conſtitution continuing in force to this day, the Sons or Brothers of their Kings receive ſuch an *Apannage* (they call it) as is beſtow'd on them, remaining ſubject to the Crown as well as other men. And there has bin no King of *France* ſince that time (except only *Charles* the ſixth) who has not acknowledged that he cannot alienate any part of their Dominion.

Whoever imputes the acknowledgment of this to Kingcraft, and ſays, that they who avow this when 'tis for their advantage, will deny it on a

* Que les Roys ont cette bienheureuſe impuiſſance de ne pouvoir rien faire contre les loix de leur pays. *Traité des droits de la Reyne.*

CHAP. II.

different occaſion, is of all men their moſt dangerous Enemy. In laying ſuch fraud to their charge, he deſtroys the veneration by which they ſubſiſt, and teaches Subjects not to keep Faith with thoſe, who by the moſt malicious deceits ſhow, that they are ty'd by none. Human Societys are maintain'd by mutual Contracts, which are of no value if they are not obſerv'd. Laws are made, and Magiſtrats created to cauſe them to be perform'd in publick and private matters, and to puniſh thoſe who violate them. But none will ever be obſerv'd, if he who receives the greateſt benefit by them, and is ſet up to overſee others, give the example to thoſe who of themſelves are too much inclin'd to break them. The firſt ſtep that *Pompey* made to his own ruin was, by violating the Laws he himſelf had propos'd. But it would be much worſe for Kings to break thoſe that are eſtabliſh'd by the Authority of a whole People, and confirm'd by the ſucceſſion of many Ages.

Suarum legum lator & everſor. *Tacit.*

I am far from laying any ſuch blemiſhes on them, or thinking that they deſerve them. I muſt believe the *French* King ſpeaks ſincerely, when he ſays he can do nothing againſt the Laws of his Country: And that our King *James* did the like, when he acknowledg'd himſelf to be the Servant of the Commonwealth; and the rather, becauſe 'tis true, and that he is plac'd in the Throne to that end. Nothing is more eſſential and fundamental in the Conſtitutions of Kingdoms, than that Diets, Parliaments, and Aſſemblys of Eſtates ſhould ſee this perform'd. 'Tis not the King that gives them a right to judg of matters of War or Peace, to grant Supplys of men and mony, or to deny them; and to make or abrogate Laws at their pleaſure: All the Powers rightly belonging to Kings, or to them, proceed from the ſame root. The Northern Nations ſeeing what miſchiefs were generally brought upon the Eaſtern, by referring too much to the irregular will of a man; and what thoſe who were more generous had ſuffer'd, when one man by the force of a corrupt mercenary Soldiery had overthrown the Laws by which they liv'd, fear'd they might fall into the ſame miſery; and therefore retain'd the greater part of the Power to be exercis'd by their General Aſſemblys, or by Delegates, when they grew ſo numerous that they could not meet. Theſe are the Kingdoms of which *Grotius* ſpeaks, *where the King has his part, and the Senat or People their part of the ſupreme Authority*; and where the Law preſcribes ſuch limits, *that if the King attempts to ſeize that part which is not his, he may juſtly be oppos'd:* Which is as much as to ſay, that the Law upholds the Power it gives, and turns againſt thoſe who abuſe it.

This Doctrin may be diſpleaſing to Court-Paraſites; but is no leſs profitable to ſuch Kings as follow better Counſels, than to the Nations that live under them: the Wiſdom and Vertue of the beſt is always fortify'd by the concurrence of thoſe who are plac'd in part of the Power; they always do what they will, when they will nothing but that which is good; and 'tis a happy impotence in thoſe, who thro ignorance or malice deſire to do evil, not to be able to effect it. The weakneſs of ſuch as by defects of Nature, Sex, Age, or Education, are not able of themſelves to bear the weight of a Kingdom, is thereby ſupported, and they together with the People under them preſerv'd from ruin; the furious raſhneſs of the Inſolent is reſtrain'd; the extravagance of thoſe who are naturally leud, is aw'd; and the beſtial madneſs of the moſt violently wicked and outrageous, ſuppreſt. When the Law provides for theſe matters, and preſcribes ways by which they may be accompliſh'd, every man

man who receives or fears any Injury, ſeeks a remedy in a legal way, and vents his Paſſions in ſuch a manner as brings no prejudice to the Commonwealth: If his Complaints againſt a King may be heard, and redreſt by Courts of Juſtice, Parliaments, and Diets, as well as againſt private men, he is ſatisfy'd, and looks no farther for a Remedy. But if Kings, like thoſe of *Iſrael*, will neither judg nor be judg'd, and there be no Power orderly to redreſs private or publick Injurys, every man has recourſe to force, as if he liv'd in a Wood where there is no Law; and that force is generally mortal to thoſe who provoke it: No Guards can preſerve a hated Prince from the vengeance of one reſolute hand; and they as often fall by the Swords of their own Guards as of others: Wrongs will be done, and when they that do them cannot or will not be judg'd publickly, the injur'd Perſons become Judges in their own caſe, and Executioners of their own ſentence. If this be dangerous in matters of private concernment, 'tis much more ſo in thoſe relating to the publick. The leud extravagances of *Edward* and *Richard* the Seconds, whilſt they acknowledg'd the power of the Law, were gently reprov'd and reſtrain'd with the removal of ſome profligate Favorites; but when they would admit of no other Law than their own Will, no relief could be had but by their Depoſition. The lawful *Spartan* Kings, who were obedient to the Laws of their Country, liv'd in ſafety, and dy'd with glory; whereas 'tis a ſtrange thing to ſee a lawleſs Tyrant die without ſuch infamy and miſery, as held a juſt proportion with the wickedneſs of his Life. They did, as *Plutarch* ſays of *Dionyſius, many miſchiefs, and ſuffer'd more.* This is confirm'd by the examples of the Kingdom of *Iſrael*, and of the Empires of *Rome* and *Greece*; they who would ſubmit to no Law, were deſtroy'd without any. I know not whether they thought themſelves to be Gods, as our Author ſays they were; but I am ſure the moſt part of them dy'd like Dogs, and had the burial of Aſſes rather than of Men.

SECT. 30.

Vit. Timoleon.

This is the happineſs to which our Author would promote them all. *If a King admits a People to be his companions, he ceaſes to be a King, and the State becomes a Democracy.* And a little farther: *If in ſuch Aſſemblys, the King, Nobility, and People, have equal ſhares in the Sovereignty, then the King has but one voice, the Nobility likewiſe one, and the People one; and then any two of theſe voices ſhould have power to overrule the third: Thus the Nobility and Commons ſhould have a power to make a Law to bridle the King, which was never ſeen in any Kingdom.* We have heard of Nations that admitted a man to reign over them (that is, made him King) but of no man that made a People. The *Hebrews* made *Saul*, *David*, *Jeroboam*, and other Kings: when they return'd from Captivity, they conſer'd the ſame Title upon the *Aſmonean* race, as a reward of their Valor and Vertue. The *Romans* choſe *Romulus*, *Numa*, *Hoſtilius*, and others to be their Kings; the *Spartans* inſtituted two, one of the *Heraclidæ*, the other of the *Æacidæ*. Other Nations ſet up one, a few, or more Magiſtrats to govern them: and all the World agrees, that *Qui dat eſſe, dat modum eſſe*; He that makes him to be, makes him to be what is: and nothing can be more abſurd than to ſay, that he who has nothing but what is given, can have more than is given to him. If *Saul* and *Romulus* had no other title to be Kings, than what the People confer'd upon them, they could be no otherwiſe Kings than as pleas'd the People: They therefore did not admit the People to be partakers of the Government; but the People who had all in themſelves, and could not have made a King if

CHAP. II. they had not had it, beſtow'd upon him what they thought fit, and retain'd the reſt in themſelves. If this were not ſo, then inſtead of ſaying to the multitude, *Will ye have this man to reign?* they ought to ſay to the man, *Wilt thou have this multitude to be a People?* And whereas the Nobles of *Arragon* us'd to ſay to their new made King, *We who are as good as you, make you our King, on condition you keep and maintain our Rights and Libertys, and if not, not*; he ſhould have ſaid to them, I who am better than you, make you to be a People, and will govern you as I pleaſe. But I doubt whether he would have ſucceeded, till that Kingdom was join'd to others of far greater ſtrength, from whence a power might be drawn to force them out of their uſual method.

That which has bin ſaid of the Governments of *England*, *France*, and other Countrys, ſhows them to be of the ſame nature; and if they deſerve not the name of Kingdoms, and that their Princes will by our Author's Arguments be perſuaded to leave them, thoſe Nations perhaps will be ſo humble to content themſelves without that magnificent Title, rather than reſign their own Libertys to purchaſe it: and if this will not pleaſe him, he may ſeek his glorious ſovereign Monarchy among the wild *Arabs*, or in the Iſland of *Ceylon*; for it will not be found among civiliz'd Nations.

However more ignorance cannot be expreſt, than by giving the name of *Democracy* to thoſe Governments that are compos'd of the three ſimple ſpecies, as we have prov'd that all the good ones have ever bin: for in a ſtrict ſenſe it can only ſute with thoſe, where the People retain to themſelves the adminiſtration of the ſupreme Power; and more largely, when the popular part, as in *Athens*, greatly overbalances the other two, and that the denomination is taken from the prevailing part. But our Author, if I miſtake not, is the firſt that ever took the antient Governments of *Iſrael*, *Sparta* and *Rome*, or thoſe of *England*, *France*, *Germany* and *Spain*, to be *Democracys*, only becauſe every one of them had Senats and Aſſemblys of the People, who in their Perſons, or by their Deputys, did join with their chief Magiſtrats in the exerciſe of the ſupreme Power. That of *Iſrael*, to the time of *Saul*, is call'd by *Joſephus* an *Ariſtocracy*. The ſame name is given to that of *Sparta* by all the *Greek* Authors; and the great conteſt in the *Peloponneſian* War was between the two kinds of Government; the Citys that were govern'd Ariſtocratically, or deſir'd to be ſo, following the *Lacedemonians*, and ſuch as delighted in *Democracy*, taking part with the *Athenians*. In like manner *Rome*, *England*, and *France*, were ſaid to be under Monarchys; not that their Kings might do what they pleas'd, but becauſe one man had a preheminence above any other. Yet if the *Romans* could take *Romulus*, the Son of a man that was never known, *Numa* a *Sabin*, *Hoſtilius* and *Ancus Martius* private men, and *Tarquinius Priſcus* the Son of a baniſh'd *Corinthian*, who had no Title to a preference before others till it was beſtow'd upon them; 'tis ridiculous to think, that they who gave them what they had, could not ſet what limits they pleas'd to their own gift.

But, ſays our Author, *The Nobility will then have one Voice, and the People another, and they joining may overrule the third, which was never ſeen in any Kingdom.* This may perhaps be one way of regulating the Monarchical Power, but it is not neceſſary, nor the only one: There may be a Senate, tho the People be excluded; that Senate may be compos'd of men choſen for their Vertue, as well as for the Nobility of their Birth: The Government may conſiſt of King and People without a Senate; or the

Senate

Senate may be compos'd only of the Peoples Delegates. But if I ſhould grant his aſſertion to be true, the reaſonableneſs of ſuch a Conſtitution cannot be deſtroy'd by the conſequences he endeavors to draw from it; for he who would inſtruct the world in matters of State, muſt ſhow what is, or ought to be, not what he fancys may thereupon enſue. Beſides, it dos not follow, that where there are three equal Votes, Laws ſhould be always made by the plurality; for the conſent of all the three is in many places requir'd: and 'tis certain that in *England*, and other parts, the King and one of the Eſtates cannot make a Law without the concurrence of the other. But to pleaſe *Filmer*, I will avow, that where the Nobles and Commons have an equal Vote, they may join and over-rule or limit the power of the King: and I leave any reaſonable man to judg, whether it be more ſafe and fit, that thoſe two Eſtates comprehending the whole body of the Nation in their Perſons, or by repreſentation, ſhould have a right to over-rule or limit the power of that man, woman, or child, who ſits in the Throne; or that he or ſhe, young or old, wiſe or fooliſh, good or bad, ſhould over rule them, and by their vices, weakneſs, folly, impertinence, incapacity, or malice, put a ſtop to their proceedings; and whether the chief concernments of a Nation may more ſafely and prudently be made to depend upon the votes of ſo many eminent Perſons, amongſt whom many wiſe and good men will always be found if there be any in the Nation, and who in all reſpects have the ſame intereſt with them, or upon the will of one, who may be, and often is as vile, ignorant, and wretched as the meaneſt Slave; and either has, or is for the moſt part made to believe he has, an intereſt ſo contrary to them, that their ſuppreſſion is his Advancement. Common ſenſe ſo naturally leads us to the deciſion of this Queſtion, that I ſhould not think it poſſible for Mankind to have miſtaken, tho we had no examples of it in Hiſtory: and 'tis in vain to ſay, that all Princes are not ſuch as I repreſent; for if a right were annex'd to the being of a Prince, and that his ſingle judgment ſhould over-balance that of a whole Nation, it muſt belong to him as a Prince, and be enjoy'd by the worſt and baſeſt, as well as by the wiſeſt and beſt, which would inevitably draw on the abſurditys above mention'd. But that many are, and have bin ſuch, no man can deny, or reaſonably hope that they will not often prove to be ſuch, as long as any preference is granted to thoſe who have nothing to recommend them, but the Familys from whence they derive; a continual ſucceſſion of thoſe who excel in Vertue, Wiſdom, and Experience, being promis'd to none, nor reaſonably to be expected from any. Such a Right therefore cannot be claim'd by all; and if not by all, then not by any, unleſs it proceed from a particular grant in conſideration of perſonal Vertue, Ability, and Integrity, which muſt be prov'd: and when any one goes about to do it, I will either acknowledg him to be in the right, or give the reaſons of my denial. SECT. 30.

However this is nothing to the general Propoſition: nay, if a man were to be found, who had more of the qualitys requir'd for making a right judgment in matters of the greateſt importance, than a whole Nation, or an Aſſembly of the beſt men choſen out of it (which I never heard to have bin, unleſs in the Perſons of *Moſes*, *Joſhua*, or *Samuel*, who had the Spirit of God for their guide) it would be nothing to our purpoſe; for even he might be biaſs'd by his perſonal Intereſts, which Governments are not eſtabliſh'd to promote.

CHAP. II.

I may go a ſtep farther, and truly ſay, that as ſuch vaſt Powers cannot be generally granted to all who happen to ſucceed in any Familys without evident danger of utter Deſtruction, when they come to be executed by children, women, fools, vicious, incapable or wicked perſons, they can be reaſonably granted to none, becauſe no man knows what any one will prove till he be try'd; and the importance of the Affair requires ſuch a trial as can be made of no man till he be dead. He that reſiſts one Temptation may fall under the Power of another; and nothing is more common in the world, than to ſee thoſe men fail groſly in the laſt actions of their lives, who had paſs'd their former days without reproach: Wiſe and good men will with *Moſes* ſay of themſelves, *I cannot bear the burden*; and every man who is concern'd for the publick Good, ought to let fools know they are not fit to undergo it, and by Law to reſtrain the fury of ſuch as will not be guided by reaſon. This could not be deny'd, tho Governments were conſtituted for the good of the Governor. 'Tis good for him that the Law appoints helps for his Infirmitys, and reſtrains his Vices: but all Nations ought to do it tho it were not ſo, in as much as Kingdoms are not eſtabliſh'd for the good of one man, but of the People; and that King who ſeeks his own good before that of the People, departs from the end of his Inſtitution.

This is ſo plain, that all Nations who have acted freely, have ſome way or other endeavour'd to ſupply the defects, or reſtrain the vices of their ſupreme Magiſtrats; and thoſe among them deſerve moſt praiſe, who by appointing means adequate to ſo great a work, have taken care that it might be eaſily and ſafely accompliſh'd: Such Nations have always flouriſh'd in Vertue, Power, Glory, and Happineſs, whilſt thoſe who wanted their Wiſdom, have ſuffer'd all manner of Calamitys by the weakneſs or injuſtice of their Princes, or have had their hands perpetually in Blood to preſerve themſelves from their fury. We need no better example of the firſt, than that of the *Spartans*, who by appointing ſuch Limits to the power of their Kings as could hardly be tranſgreſt, continu'd many Ages in great union with them, and were never troubled with civil Tumults. The like may be ſaid of the *Romans* from the expulſion of the *Tarquins*, till they overthrew their own Orders, by continuing *Marius* for five years in the Conſulat, whereas the Laws did not permit a man to hold the ſame Office two years together; and when that rule was broken, their own Magiſtrats grew too ſtrong for them, and ſubverted the Commonwealth. When this was done, and the power came into the hands of one man, all manner of evils and calamitys broke in like a flood: 'Tis hard to judg, whether the miſchiefs he did, or thoſe he ſuffer'd were the greater. He who ſet up himſelf to be Lord of the World, was like to a Beaſt crown'd for the ſlaughter, and his greatneſs was the forerunner of his ruin. By this means ſome of thoſe who ſeem not to have bin naturally prone to evil, were by their fears put upon ſuch courſes to preſerve themſelves, as being rightly eſtimated, were worſe than the death they apprehended: and the ſo much celebrated *Conſtantine* the Great dy'd no leſs polluted with the Blood of his neareſt Relations and Friends, than *Nero* himſelf. But no place can ſhow a more lively picture of this, than the Kingdoms of *Granada*, and others poſſeſt by the *Moors* in *Spain*, where there being neither Senate nor Aſſemblys of the Nobility and People, to reſtrain the violence and fury of their Kings, they had no other way than to kill them when their vices became inſupportable; which happening for the moſt part, they were almoſt all murder'd;

Hiſt. de Eſpan. de Mariana.

der'd; and things were brought to ſuch extremity, that no man would accept a Crown, except he who had neither Birth nor Vertue to deſerve it. SECT. 30.

If it be ſaid that Kings have now found out more eaſy ways of doing what they pleaſe, and ſecuring themſelves; I anſwer, that they have not prov'd ſo to all, and it is not yet time for ſuch as tread in the ſame ſteps to boaſt of their ſucceſs: many have fallen when they thought their deſigns accompliſh'd; and no man, as long as he lives, can reaſonably aſſure himſelf the like ſhall not befal him. But if in this corrupted Age, the treachery and perjury of Princes be more common than formerly; and the number of thoſe who are brought to delight in the rewards of injuſtice, be ſo increas'd, that their partys are ſtronger than formerly: this rather ſhows that the balance of Power is broken, or hard to be kept up, than that there ought to be none; and 'tis difficult for any man, without the Spirit of Prophecy, to tell what this will produce. Whilſt the antient Conſtitutions of our Northern Kingdoms remain'd intire, ſuch as conteſted with their Princes, ſought only to reform the Governments, and by redreſſing what was amiſs, to reduce them to their firſt Principles; but they may not perhaps be ſo modeſt, when they ſee the very nature of their Government chang'd, and the foundations overthrown. I am not ſure that they who were well pleas'd with a moderate Monarchy, will ſubmit to one that is abſolute; and 'tis not improbable, that when men ſee there is no medium between Tyranny and Popularity, they who would have bin contented with the reformation of their Government, may proceed farther, and have recourſe to Force, when there is no help in the Law. This will be a hard work in thoſe places where Vertue is wholly aboliſh'd; but the difficulty will lie on the other ſide, if any ſparks of that remain: if Vice and Corruption prevail, Liberty cannot ſubſiſt; but if Vertue has the advantage, arbitrary Power cannot be eſtabliſh'd. Thoſe who boaſt of their *Loyalty*, and think they give teſtimonys of it, when they addict themſelves to the will of one Man, tho contrary to the Law from whence that Quality is deriv'd, may conſider, that by putting their Maſters upon illegal courſes, they certainly make them the worſt of men, and bring them into danger of being alſo the moſt miſerable. Few or no good Princes have fallen into diſaſters, unleſs thro an extremity of corruption introduc'd by the moſt wicked; and cannot properly be call'd unhappy, if they periſh'd in their Innocence; ſince the bitterneſs of Death is aſſuag'd by the tears of a loving People, the aſſurance of a glorious memory, and the quiet of a well-ſatisfy'd mind. But of thoſe who have abandon'd themſelves to all manner of Vice, follow'd the impulſe of their own fury, and ſet themſelves to deſtroy the beſt men for oppoſing their pernicious deſigns, very few have dy'd in peace. Their Lives have bin miſerable, Death infamous, and Memory deteſtable.

They therefore who place Kings within the power of the Law, and the Law to be a guide to Kings, equally provide for the good of King and People: Whereas they who admit of no participants in power, and acknowledg no rule but their own Will, ſet up an intereſt in themſelves againſt that of their People, loſe their affections, which is their moſt important Treaſure, and incur their hatred, from whence reſults their greateſt danger.

SECT.

SECT. XXXI.

The Libertys of Nations are from God and Nature, not from Kings.

WHatſoever is uſually ſaid in oppoſition to this, ſeems to proceed from a groundleſs conceit, that the Libertys enjoy'd by Nations ariſe from the Conceſſions of Princes. This point has bin already treated: but being the foundation of the Doctrin I oppoſe, it may not be amiſs farther to examin how it can be poſſible for one man, born under the ſame condition with the reſt of Mankind, to have a Right in himſelf that is not common to all others, till it be by them or a certain number of them conſer'd upon him; or how he can without the utmoſt abſurdity be ſaid to grant Libertys and Privileges to them who made him to be what he is.

If I had to do with a man that ſought after Truth, I ſhould think he had bin led into this extravagant opinion by the terms ordinarily us'd in Patents and Charters granted to particular men; and not diſtinguiſhing between the Proprietor and the Diſpenſer, might think Kings had given, as their own, that which they only diſtribute out of the publick Treaſury, and could have had nothing to diſtribute by parcels, if it had not bin given to them in groſs by the Publick. But I need not uſe our Author ſo gently. The perverſity of his judgment, and obſtinate hatred to Truth, is ſufficient to draw him into the moſt abſurd errors, without any other inducement; and it were not charity, but folly to think otherwiſe of one who attributes in general to all Princes, without any regard to the ways by which they attain to their Power, ſuch an Authority as never juſtly belong'd to any.

This will be evident to all thoſe who conſider, that no man can conſer upon others that which he has not in himſelf: If he be originally no more than they, he cannot grant to them or any of them more than they to him. In the *7th*, *8th*, *9th*, and ſubſequent Sections of the firſt Chapter, it has bin prov'd that there is no reſemblance between the paternal Right, and the abſolute Power which he aſſerts in Kings: that the right of a Father, whatever it be, is only over his Children; that this right is equally inherited by them all when he dies: that every one cannot inherit Dominion; for the right of one would be inconſiſtent with that of all others: that the right which is common to all is that which we call Liberty, or exemption from Dominion: that the firſt Fathers of Mankind after the Flood had not the exerciſe of Regal Power; and whatſoever they had was equally devolv'd to every one of their Sons, as appears by the examples of *Noah*, *Shem*, *Abraham*, *Iſaac*, *Jacob*, and their Children: that the erection of *Nimrod*'s Kingdom was directly contrary to, and inconſiſtent with the paternal right, if there was any regality in it: that the other Kingdoms of that time were of the ſame nature: that *Nimrod* not exceeding the age of threeſcore years when he built *Babel*, could not be the Father of thoſe that aſſiſted him in that attempt: that if the ſeventy two Kings, who, as our Author ſays, went from *Babylon* upon the confuſion of Languages, were not the Sons of *Nimrod*, he could not govern them by the right of a Father; if they were, they muſt have bin very young, and could not have Children of their own to people the Kingdoms they ſet up: that whoſe Children ſoever they were, who out of a part of

Mankind

Mankind did within a hundred and thirty two years after the Flood, di- SECT. 31.
vide into ſo many Kingdoms, they ſhew'd that others in proceſs of time might ſubdivide into as many as they pleas'd; and Kingdoms multiplying in the ſpace of four thouſand years ſince the 72, in the ſame proportion they did in one hundred and thirty two years into ſeventy two, there would now be as many Kings in the World as there are men; that is, no man could be ſubject to another: that this equality of Right and exemption from the domination of any other, is call'd Liberty: that he who enjoys it cannot be depriv'd of it, unleſs by his own conſent, or by force: that no one man can force a Multitude, or if he did, it could confer no right upon him: that a Multitude conſenting to be govern'd by one man, dos confer upon him the power of governing them; the powers therefore that he has, are from them, and they who have all in themſelves can receive nothing from him, who has no more than every one of them, till they do inveſt him with it. This is prov'd by ſacred and profane Hiſtorys. The *Hebrews* in the creation of Judges, Kings, or other Magiſtrats, had no regard to Paternity, or to any who by extraction could in the leaſt pretend to the right of Fathers: God did never direct them to do it, nor reprove them for neglecting it: If they would chuſe a King, he commanded them to take one of their Brethren, not one who call'd himſelf their Father: When they did reſolve to have one, he commanded them to chuſe him by lot, and caus'd the Lot to fall upon a young man of the youngeſt Tribe: *David* and the other Kings of *Iſrael* or *Judah* had no more to ſay for themſelves in that point than *Saul:* All the Kings of that Nation before and after the Captivity, ordinarily or extraordinarily ſet up, juſtly or unjuſtly, were rais'd without regard to any Prerogative they could claim or arrogate to themſelves on that account. All that they had therefore was from their elevation, and their elevation from thoſe that elevated them: 'Twas impoſſible for them to confer any thing upon thoſe from whom they receiv'd all they had; or for the People to give power to Kings, if they had not had it in themſelves; which Power univerſally reſiding in every one, is that which we call Liberty. The method of other Nations was much like to this. They plac'd thoſe in the Throne who ſeem'd beſt to deſerve ſo great an Honour, and moſt able to bear ſo great a Burden: The Kingdoms of the Heroes were nothing elſe but the Government of thoſe who were moſt beneficent to the Nations amongſt whom they liv'd, and whoſe Vertues were thought fit to be rais'd above the ordinary level of the World. Tho perhaps there was not any one *Athenian* or *Roman* equal to *Theſeus* or *Romulus* in courage and ſtrength, yet they were not able to ſubdue many: or if any man ſhould be ſo vain to think that each of them did at firſt ſubdue one man, then two, and ſo proceeding by degrees conquer'd a whole People, he cannot without madneſs aſcribe the ſame to *Numa*, who being ſent for from a foreign Country, was immediately made King of a fierce People, that had already conquer'd many of their Neighbours, and was grown too boiſterous even for *Romulus* himſelf. The like may be ſaid of the firſt *Tarquin*, and of *Servius*; they were Strangers: and tho *Tullus Hoſtilius* and *Ancus Martius* were *Romans*, they had as little title to a Dominion over their Fellow-Citizens, or means of attaining to it, as if they had come from the fartheſt parts of the Earth. This muſt be in all places, unleſs one man could prove by a perfect and uninterrupted Genealogy, that he is the eldeſt Son of the eldeſt Line of *Noah*, and that Line to have

CHAP. II.

continu'd perpetually in the Government of the World: for if the Power has bin divided, it may be ſubdivided to infinity; if interrupted, the chain is broken, and can never be made whole. But if our Author can perform this for the ſervice of any man, I willingly ſurrrender my Arms, and yield up the Cauſe I defend. If he fail, 'tis ridiculous to pretend a Right that belongs to no man, or to go about to retrieve a Right which for the ſpace of four thouſand years has lain dormant; and much more to create that which never had a ſubſiſtence. This leads us neceſſarily to a concluſion, That all Kingdoms are at the firſt erected by the conſent of Nations, and given to whom they pleaſe; or elſe all are ſet up by force, or ſome by force, and ſome by conſent: If any are ſet up by the conſent of Nations, their Kings do not confer Libertys upon thoſe Nations, but receive all from them, and the general Propoſition is falſe. If our Author therefore, or his Followers, would confute me, they muſt prove that all the Kingdoms of the World have their beginning from force, and that Force dos always create a Right; or if they recede from the general Propoſition, and attribute a peculiar right to one or more Princes, who are ſo abſolute Lords of their People, that thoſe under them have neither Liberty, Privilege, Property or Part in the Government, but by their Conceſſions, they muſt prove that thoſe Princes did by force gain the Power they have, and that their Right is deriv'd from it. This Force alſo muſt have bin perpetually continu'd; for if that force be the root of the Right that is pretended, another force by the ſame rule may overturn, extinguiſh or transfer it to another hand. If Contracts have interven'd, the force ceaſes; and the Right that afterwards dos accrue to the perſons, muſt proceed from, and be regulated according to thoſe Contracts.

This may be ſufficient to my purpoſe: For having already prov'd, that the Kingdoms of *Iſrael*, *Judah*, *Rome*, *Sparta*, *France*, *Spain*, *England*, and all that we are concern'd in, or that deſerve to be examples to us, did ariſe from the conſent of the reſpective Nations, and were frequently reduc'd to their firſt Principles, when the Princes have endeavour'd to tranſgreſs the Laws of their Inſtitution; it could be nothing to us, tho *Attila* or *Tamerlan* had by force gain'd the Dominions they poſſeſt. But I dare go a ſtep further, and boldly aſſert, that there never was or can be a man in the world that did, or can ſubdue a Nation; and that the right of one grounded upon force, is a mere whimſy. It was not *Agathocles*, *Dionyſius*, *Nabis*, *Marius*, *Sylla* or *Ceſar*, but the mercenary Soldiers, and other Villains that join'd with them, who ſubdu'd the *Syracuſans*, *Spartans*, or *Romans*: And as the work was not perform'd by thoſe Tyrants alone, if a right had bin gain'd by the violence they us'd, it muſt have bin common to all thoſe that gain'd it; and he that commanded them could have had no more than they thought fit to confer upon him. When *Miltiades* deſir'd leave to wear an Olive Garland, in commemoration of the Victory obtain'd at *Marathon*, an *Athenian* did in my opinion rightly ſay, "If you alone did fight againſt the *Perſians*, it is juſt that you only "ſhould be crown'd; but if others did participate in the Victory, they "ought alſo to have a part in the Honor. And the principal difference that I have obſerv'd between the moſt regular proceedings of the wiſeſt Senats or Aſſemblys of the people in their Perſons or Delegats, and the fury of the moſt diſſolute Villains, has bin, that the firſt ſeeking the publick good, do uſually ſet up ſuch a Man, and inveſt him with ſuch Powers as ſeem moſt conducing to that Good: whereas the others follow-

Plut. in Vit. Cim.

ing

ing the impulſe of a beſtial rage, and aiming at nothing but the ſatisfacti- SECT. 31.
on of their own luſts, always advance one from whom they expect the greateſt advantages to themſelves, and give him ſuch Powers as moſt conduce to the accompliſhment of their own ends: but as to the Perſon 'tis the ſame thing. *Ceſar* and *Nero* did no more make themſelves what they were, than *Numa*; and could no more confer any Right, Liberty or Privilege upon the Army that gave them all they had, than the moſt regular Magiſtrate could upon the Senat or People that choſe him.

This alſo is common to the worſt as well as the beſt, that they who ſet up either, do, as into a publick Treaſury, confer upon the Perſon they chuſe, a Power of diſtributing to particular men, or numbers of men, ſuch Honors, Privileges and Advantages, as they may ſeem, according to the Principles of the Government, to deſerve. But there is this difference, that the ends of the one being good, and thoſe of the other evil, the firſt do for the moſt part limit the Powers, that ſomething may remain to reward Services done to the Publick, in a manner proportion'd to the merit of every one; placing other Magiſtrats to ſee it really perform'd, ſo as they may not, by the weakneſs or vices of the Governor, be turn'd to the publick detriment: the others think they never give enough, that the Prince having all in his Power, may be able to gratify their moſt exorbitant deſires, if by any ways they can get his favour; and his infirmitys and vices being moſt beneficial to them, they ſeldom allow to any other Magiſtrate a power of oppoſing his Will, or ſuffer thoſe who for the publick good would aſſume it. The World affords many examples of both ſorts, and every one of them have had their progreſs ſutable to their Conſtitution. The regular Kingdoms of *England*, *France*, *Spain*, *Poland*, *Bohemia*, *Denmark*, *Sweden*, and others, whether elective or hereditary, have had High Stewards, Conſtables, Mayors of the Palace, Rixhofmeiſters, Parliaments, Diets, Aſſemblys of Eſtates, Cortez, and the like, by which thoſe have bin admitted to ſucceed who ſeem'd moſt fit for the publick Service; the unworthy have bin rejected; the infirmitys of the weak ſupply'd; the malice of the unjuſt reſtrain'd; and when neceſſity requir'd, the Crown transfer'd from one Line or Family to another. But in the furious Tyrannys that have bin ſet up by the violence of a corrupted Soldiery, as in the antient *Roman* Empire, the Kingdoms of the *Moors* and *Arabians*, the Tyrannys of *Ezzelino* of *Padoa*, thoſe of the *Viſconti* and *Sforzeſchi* of *Milan*, *Caſtruccio Caſtraccani* of *Lucca*, *Ceſar Borgia*, and others, there was nothing of all this. The Will of the Prince was a Law; all Power was in him, and he kept it, till another ſtept up and took it from him, by the ſame means that he had gain'd it. This fell out ſo frequently, that tho all the *Roman* Emperors endeavour'd to make their Power hereditary, it hardly continu'd three Generations in one Line from *Auguſtus* to *Auguſtulus*, unleſs in that of *Conſtantine*, and that with extreme confuſion and diſorder. They who had madly ſet up a Man to be their Head, and expos'd ſo much of the World as was under their power, to be deſtroy'd by him, did by the like fury throw him down, and never ceas'd till they had brought the Empire to utter ruin.

But if this paternal Sovereignty be a mere fiction that never had any effect; and no Nation was ever commanded by God to make it their rule, nor any reprov'd for the neglect of it; none ever learnt it from the light of nature, nor were by wiſe men taught to regard it: If the firſt Fathers claim'd no Privilege from it when every man's Genealogy was

CHAP. II.

known; and tho there were ſuch a thing in nature, it could be of no uſe at this day, when the ſeveral Races of men are ſo confus'd, that not one in the world can prove his own Original: If the firſt Kingdoms, whether well or ill conſtituted, according to the Command of God, or the Inventions of Men, were contrary to, and incompatible with it; and there can have bin no juſtice in any, if ſuch a Rule was to have bin obſerv'd; the continuance of an unjuſt uſurpation can never have created a Right, but aggravated the injuſtice of overthrowing it: If no man could ever by his own ſtrength and courage ſubdue a multitude, nor gain any other right over them, if he did, than they might have to tear it from him; Whoever denies Kingdoms or other Magiſtracys to have bin ſet up by men, according to their own will, and from an opinion of receiving benefit by them, accuſes all the Governments that are, or ever have bin in the world, of that outrageous injuſtice in their Foundation which can never be repair'd. If there be therefore, or ever was any juſt Government amongſt men, it was conſtituted by them; and whether their Proceedings were regular or violent, juſt or unjuſt, the Powers annex'd to it were their Donation: The Magiſtracys erected by them, whether in one or more men, temporary or perpetual, elective or hereditary, were their Creatures; and receiving all from them, could confer nothing upon them.

SECT. XXXII.

The Contracts made between Magiſtrats, and the Nations that created them, were real, ſolemn, and obligatory.

OUR Author having with big words and little ſenſe inveigh'd againſt Popular and Mix'd Governments, proceeds as if he had prov'd that they could not, or ought not to be. *If it be*, ſays he, *unnatural for the Multitude to chuſe their Governors, or to govern, or to partake in the Government; what can be thought of that damnable Concluſion which is made by too many, that the Multitude may correct or depoſe their Princes, if need be? Surely the unnaturalneſs and injuſtice of this Poſition cannot ſufficiently be expreſt. For admit that a King make a Contract or Paction with his People originally in his Anceſtors, or perſonally at his Coronation (for both theſe Pactions ſome dream of, but cannot offer any proof of either) yet by no Law of any Nation can a Contract be thought broken, except firſt a lawful trial be had by the ordinary Judg of the breakers thereof; or elſe every man may be both Party and Judg in his own caſe, which is abſurd once to be thought: for then it will lie in the hands of the headleſs multitude, when they pleaſe, to caſt off the Yoke of Government that God has laid upon them, and to judg and puniſh him, by whom they ſhould be judg'd and puniſh'd themſelves.* To this I anſwer firſt briefly, That if it be natural for the Multitude to chuſe their Governors, or to govern, or to participate of the Government as beſt pleaſes themſelves; or that there never was a Government in the World that was not ſo ſet up by them, in purſuance of the Power naturally inherent in themſelves; what can be thought of that damnable Concluſion, which has bin made by Fools or Knaves, That the Multitude may not, if need be, correct or depoſe their own Magiſtrats? Surely the unnaturalneſs and injuſtice of ſuch a Poſition cannot be ſufficiently expreſt. If that were admitted, all the moſt ſolemn Pacts and Contracts

Contracts made between Nations and their Magiſtrats, originally or perſonally, and confirm'd by Laws and mutual Oaths, would be of no value. He that would break the moſt ſacred Bonds that can be amongſt men, ſhould by perjury and wickedneſs become Judg of his own caſe, and by the worſt of crimes procure impunity for all. It would be in his power, by folly, wickedneſs and madneſs, to deſtroy the Multitude which he was created and ſworn to preſerve, tho wiſe, vertuous and juſt, and headed by the wiſeſt and juſteſt of men; or to lay a Yoke upon thoſe who by the Laws of God and Nature ought to be free: He might in his own caſe judg that Body by which he ought to be judg'd; and who in conſideration of themſelves and their own good, made him to be whatſoever he is more than every one of them: The Governments inſtituted for the preſervation of Nations, would turn to their deſtruction: It would be impoſſible to check the fury of a corrupt and perfidious Magiſtrate: The worſt of men would be rais'd to a height that was never deſerv'd by the beſt; and the aſſurance of indemnity would, by increaſing their inſolence, turn their other vices into madneſs, as has bin too often ſeen in thoſe who have had more power than they deſerv'd, and were more hardly brought to account for their actions than ought to have bin; tho I never heard of any who had ſo much as our Author aſſerts to be in all, nor that any was abſolutely aſſur'd he ſhould not be queſtion'd for the abuſe of what he had. SECT. 32.

Beſides, if every People may govern, or conſtitute and chuſe one or more Governors, they may divide the Powers between ſeveral Men, or ranks of men, allotting to every one ſo much as they pleaſe, or retaining ſo much as they think fit. This has bin practis'd in all the Governments, which under ſeveral forms have flouriſh'd in *Paleſtine*, *Greece*, *Italy*, *Germany*, *France*, *England*, and the reſt of the World. The Laws of every place ſhow what the Power of the reſpective Magiſtrate is, and by declaring how much is allow'd to him, declare what is deny'd; for he has not that which he has not, and is to be accounted a Magiſtrate whilſt he exerciſes that which he has.

If any doubts do hereupon ariſe, I hope to remove them, proving in the firſt place, that ſeveral Nations have plainly and explicitly made Contracts with their Magiſtrats.

2. That they are implicit, and to be underſtood, where they are not plainly expreſt.

3. That they are not dreams, but real things, and perpetually obliging.

4. That Judges are in many places appointed to decide the Conteſts ariſing from the breach of theſe Contracts; and where they are not, or the party offending is of ſuch force or pride that he will not ſubmit, Nations have bin oblig'd to take the extremeſt courſes.

To the firſt: I ſuppoſe it will not be deny'd, that the annual Magiſtrats of divers Commonwealths are under ſome Compact, and that there is a power of conſtraining them to perform the contents, or to puniſh them for the violation. The modeſt behaviour of the *Roman* Conſuls and Dictators (as long as their Laws were in force) might not probably proceed from their good nature. Tho the people had not bin, as our Author ſays, *mad, fooliſh, and always deſirous to chuſe the worſt men for being moſt like to themſelves*, but admirably wiſe and vertuous, 'tis not to be imagin'd that in the ſpace of three or four hundred years they ſhould never have fallen upon one who would have tranſgreſt, if he could have done it ſafely, tho they had us'd the utmoſt caution in their choice.

But

CHAP. II. But the power of the Conſuls being only for a year, that of the Dictator for ſix months at moſt, and the Commiſſion that he ſhould take care * the Commonwealth might ſuffer no damage, ſhow the end and condition upon which they were choſen; and tho their Power is by ſome thought to have bin abſolute, yet the Conſuls were frequently oppos'd and brought into order by the Senat, Tribuns, or People, and ſometimes the Dictator himſelf. *Camillus* in his fourth Dictatorſhip was threaten'd by the Tribuns with a great Fine, and by that means oblig'd to abdicate his Magiſtracy. I have already mention'd *Marcus Fabius Maximus*, who in the behalf of his Son *Quintus* condemn'd to die by *Papirius* the Dictator, appeal'd to the † People: And when the Conduct of *Fabius* in the War againſt *Hannibal* was not approv'd, the Tribun thought he made a very modeſt Propoſition, in that he did not deſire his Magiſtracy ſhould be abrogated; but that the Maſter of the Horſe ſhould be made equal to him in power, which was done accordingly. 'Tis agreed by all, that the Conſuls were in the place of Kings, and that the Power of the Dictator was at leaſt equal to what theirs had bin. If they therefore were under ſuch a rule, which they could not tranſgreſs, or might be reduc'd to order if they did, and forc'd to ſubmit to the People, as the Kings had done, the Kings were alſo made upon the ſame conditions, and equally oblig'd to perform them.

Plut. Vit. Camil.

The Scripture is more clear in the caſe. The Judges are ſaid to have bin in power equal to Kings; and I may perhaps ackowledg it, with relation to the Deuteronomical King, or ſuch as the People might have choſen without offending God. The *Gileadites* made a Covenant with *Jephtha*, that he ſhould be their Head and Captain: He would not return to his Country till they had done it. This was perform'd ſolemnly before the Lord in *Miſpeth*, and all *Iſrael* follow'd them. They might therefore make a Covenant with their Kings, for the difference of name dos not increaſe or diminiſh the Right. Nay, they were in duty oblig'd to do it: The words of the 17*th* of *Deuter*. *He ſhall not multiply Wives*, &c. *that his Heart be not lifted up above his Brethren*, can have no other ſignification, than that they ſhould take care he did it not, or, as *Joſephus* ſays, hinder him if he attempt it; for the Law was not given to the King who was not, but thoſe who might make him if they thought fit. In purſuance of this Law——

[The reſt of this Chapter is wanting in the Original Manuſcript.]

* Ne quid detrimenti Reſpubl. accipiat.

† Qui ſolus plus quam tua Dictatura poteſt polletq; cui & reges ceſſere, &c. *T. Liv.* l. 8.

CHAP.

CHAP. III.

SECT. I.

Kings not being Fathers of their People, nor excelling all others in Vertue, can have no other juſt Power than what the Laws give; nor any title to the privileges of the Lord's Anointed.

HAVING prov'd that the right of Fathers is from Nature, and incommunicable, it muſt follow, that every man dos perpetually owe all love, reſpect, ſervice, and obedience to him that did beget, nouriſh, and educate him, and to no other under that name. No man therefore can claim the right of a Father over any, except one that is ſo; no man can ſerve two Maſters; the extent and perpetuity of the Duty which every man owes to his Father, renders it impoſſible for him to owe the ſame to any other: This right of Father cannot be devolv'd to the Heir of the Father, otherwiſe than as every Son by the Law of Nature is Heir to his Father, and has the ſame right of commanding his Children, as his Father had of commanding him when he was a Child: no man can owe to his Brother that which he ow'd to his Father, becauſe he cannot receive that from him which he had from his Father: but the utmoſt of all abſurditys that can enter into the Heart of man is, for one to exact the rights due to a Father, who has no other title than force and uſurpation, it being no leſs than to ſay, that I owe as much to one who has done me the greateſt of all Injurys, as to him who has conſer'd upon me the greateſt Benefits: or, which is yet worſe, if poſſible, that as theſe uſurpations cannot be made but by robbing, ſpoiling, impriſoning, or killing the Perſon in poſſeſſion; that Duty, which by the eternal Law of Nature I owe to my Father, ſhould oblige me to pay the ſame veneration, obedience, and ſervice, to the man that has ſpoil'd, impriſon'd, or kill'd my Father, as I ow'd to him; or that the ſame Law which oblig'd me to obey and defend my Father, becauſe he was ſo, ſhould oblige me to obey and defend his enemy, becauſe he has impriſon'd or kill'd him; and not only to paſs over the Law of God, which makes me the avenger of my Father's Blood, but to reward his Murderer with the rights that comprehend all that is moſt tender and ſacred in Nature, and to look upon one that has done me the greateſt of all injuſtices and injurys, as upon him to whom I owe my Birth and Education. This being evident to all thoſe who have any meaſure of common ſenſe, I ſuppoſe it may be ſafely concluded, that what right ſoever a Father may have over his Family, it cannot relate to that which a King has over his People; unleſs he, like the man in the Iſland of *Pines*, mention'd before, be alſo the Father of them all. That which is

abſo-

CHAP. III. abſolutely unlike in manner and ſubſtance, inſtitution and exerciſe, muſt be unlike in all reſpects; and the Concluſions, which have their ſtrength from Similitude and Parity, can have none when there is not the leaſt ſimilitude of either. And tho it were true, that Fathers are held by no contracts, (which generally 'tis not; for when the Son is of age, and dos ſomething for the Father to which he is not oblig'd, or gives him that which he is not bound to give, ſuppoſe an Inheritance receiv'd from a Friend, goods of his own acquiſition, or that he be emancipated, all good Laws look upon thoſe things as a valuable conſideration, and give the ſame force to contracts thereupon made, as to thoſe that paſs between ſtrangers) it could have no relation to our queſtion concerning Kings. One principal reaſon that renders it very little neceſſary by the Laws of Nations, to reſtrain the power of Parents over their Children is, becauſe 'tis preſum'd they cannot abuſe it: they are thought to have a Law in their Bowels, obliging them more ſtrictly to ſeek their good, than all thoſe that can be laid upon them by another Power; and yet if they depart from it, ſo as inhumanly to abuſe or kill their Children, they are puniſh'd with as much rigor, and accounted more unpardonable than other men. Ignorance or wilful malice perſuading our Author to paſs over all this, he boldly affirms, *That the Father of a Family governs it by no other Law than his own Will*; and from thence infers, that the condition of Kings is the ſame. He would ſeem to ſoften the harſhneſs of this Propoſition by ſaying, *That a King is always ty'd by the ſame Law of Nature to keep this general ground, that the ſafety of the Kingdom is his chief Law.* But he ſpoils it in the next page, by aſſerting, *That it is not right for Kings to do injury, but it is right that they go unpuniſh'd by the People, if they do; ſo that in this point it is all one, whether* Samuel *deſcribe a King or a Tyrant, for patient obedience is due unto both; no remedy in the Text againſt Tyrants, but crying and praying unto God in that day.* In this our Author, according to the cuſtom of Theaters, runs round in a Circle, pretends to grant that which is true, and then by a lie endeavours to deſtroy all again. Kings by the Law of Nature are oblig'd to ſeek chiefly the good of the Kingdom; but there is no remedy if they do it not: which is no leſs than to put all upon the Conſcience of thoſe who manifeſtly have none. But if God has appointed that all other tranſgreſſions of the Laws of Nature, by which a private man receives damage, ſhould be puniſh'd in this world, notwithſtanding the right reſerv'd to himſelf of a future puniſhment; I deſire to know, why this alone, by which whole Nations may be, and often are deſtroy'd, ſhould eſcape the hands of Juſtice? If he preſume no Law to be neceſſary in this caſe, becauſe it cannot be thought that Kings will tranſgreſs, as there was no Law in *Sparta* againſt Adultery, becauſe it was not thought poſſible for men educated under that diſciplin, to be guilty of ſuch a Crime; and as divers Nations left a liberty to Fathers to diſpoſe of their Children as they thought fit, becauſe it could not be imagin'd that any one would abuſe that power; he ought to remember that the *Spartans* were miſtaken, and for want of that Law which they eſteem'd uſeleſs, Adulterys became as common there as in any part of the world: and the other error being almoſt every where diſcover'd, the Laws of all civiliz'd Nations make it capital for a man to kill his Children; and give redreſs to Children, if they ſuffer any other extreme injurys from their Parents, as well as to other perſons. But tho this were not ſo, it would be nothing to our queſtion, unleſs it could be ſuppos'd, that whoever gets the power of a Nation into his hands, muſt be immediately fill'd with the ſame tenderneſs

neſs of affection to the People under him, as a Father naturally has towards the Children he has begotten. He that is of this opinion, may examin the lives of *Herod*, *Tiberius*, *Caligula*, and ſome later Princes of like inclinations, and conclude it to be true, if he find that the whole courſe of their actions, in relation to the People under them, do well ſute with the tender and ſacred name of Father; and altogether falſe, if he find the contrary. But ſince every man that conſiders what has bin, or ſees what is every day done in the world, muſt confeſs, that Princes, or thoſe who govern them, do moſt frequently ſo utterly reject all thoughts of tenderneſs and piety towards the Nations under them, as rather to ſeek what can be drawn from them, than what ſhould be done for them, and ſometimes become their moſt bitter and publick enemys; 'tis ridiculous to make the ſafety of Nations to depend upon a ſuppoſition, which by daily experience we find to be falſe; and impious, to prefer the luſts of a man who violates the moſt ſacred Laws of Nature, by deſtroying thoſe he is oblig'd to preſerve, before the welfare of that People for whoſe good he is made to be what he is, if there be any thing of juſtice in the Power he exerciſes. SECT. 1.

Our Author fooliſhly thinks to cover the enormity of this nonſenſe, by turning *Salutem Populi* into *Salutem Regni:* for tho *Regnum* may be taken for the power of commanding, in which ſenſe the preſervation of it is the uſual object of the care of Princes, yet it dos more rightly ſignify the Body of that Nation which is govern'd by a King. And therefore if the Maxim be true, as he acknowledges it to be, then *Salus Populi eſt Lex ſuprema*; and the firſt thing we are to inquire is, whether the Government of this or that man dos conduce to the accompliſhment of that ſupreme Law, or not; for otherwiſe it ought to have bin ſaid, *Salus Regis eſt Lex ſuprema*, which certainly never enter'd into the head of a wiſer or better man than *Filmer*.

His Reaſons are as good as his Doctrin: *No Law*, ſays he, *can be impos'd on Kings, becauſe there were Kings before any Laws were made.* This would not follow, tho the Propoſition were true; for they, who impos'd no Laws upon the Kings they at firſt made, from an opinion of their Vertue, as in thoſe call'd by the Antients *Heroum regna*, might lay reſtrictions upon them, when they were found not to anſwer the expectation conceiv'd of them, or that their Succeſſors degenerated from their Vertue. Other Nations alſo being inſtructed by the ill effects of an unlimited Power given to ſome Kings (if there was any ſuch) might wiſely avoid the Rock upon which their Neighbours had ſplit, and juſtly moderate that Power which had bin pernicious to others. However a Propoſition of ſo great importance ought to be prov'd; but that being hard, and perhaps impoſſible, becauſe the original of Nations is almoſt wholly unknown to us, and their practice ſeems to have bin ſo various, that what is true in one is not ſo in another; he is pleas'd only to affirm it, without giving the leaſt ſhadow of a reaſon to perſuade us to believe him. This might juſtify me, if I ſhould reject his aſſertion as a thing ſaid *gratis:* but I may ſafely go a ſtep farther, and affirm, That men liv'd under Laws before there were any Kings; which cannot be deny'd, if ſuch a Power neceſſarily belongs to Kings as he aſcribes to them. For *Nimrod*, who eſtabliſh'd his Kingdom in *Babel*, is the firſt who by the Scripture is ſaid to have bin a mighty one in the Earth. He was therefore the firſt King, or Kings were not mighty; and he being the firſt King, Mankind muſt have liv'd till his time without Laws, or elſe Laws were made before

CHAP. III. Kings. To ſay that there was then no Law, is in many reſpects moſt abſurd; for the Nature of man cannot be without it, and the violences committed by ill men before the Flood, could not have bin blam'd if there had bin no Law; for that which is not, cannot be tranſgreſt. *Cain* could not have fear'd that every man who met him would ſlay him, if there had not bin a Law to ſlay him that had ſlain another. But in this caſe the Scripture is clear, at leaſt from the time that *Noah* went out of the Ark; for God then gave him a Law ſufficient for the ſtate of things at that time, if all violence was prohibited under the name of ſhedding Blood, tho not under the ſame penalty as Murder. But Penal Laws being in vain, if there be none to execute them, ſuch as know God dos nothing in vain, may conclude that he who gave this Law, did appoint ſome way for its execution, tho unknown to us. There is therefore a Law not given by Kings, but laid upon ſuch as ſhould be Kings, as well as on any other Perſons, by one who is above them; and perhaps I may ſay, that this Law preſſes moſt upon them, becauſe they who have moſt power, do moſt frequently break out into acts of Violence, and moſt of all diſdain to have their Will reſtrain'd: and he that will exempt Kings from this Law, muſt either find that they are excepted in the Text, or that God who gave it has not a Power over them.

Moreover, it has bin prov'd at the beginning of this Treatiſe, that the firſt Kings were of the accurſed race, and reign'd over the accurſed Nations, whilſt the holy Seed had none. If therefore there was no Law where there was no King, the accurſed Poſterity of *Cham* had Laws, when the bleſſed Deſcendents of *Shem* had none, which is moſt abſurd; the word *Outlaw* or *Lawleſs*, being often given to the wicked, but never to the juſt and righteous.

The impious folly of ſuch Aſſertions goes farther than our Author perhaps ſuſpected: for if there be no Law where there is no King, the *Iſraelites* had no Law till *Saul* was made King, and then the Law they had was from him. They had no King before, for they ask'd one. They could not have ask'd one of *Samuel*, if he had bin a King. He had not bin offended, and God had not imputed to them the ſin of rejecting him, if they had ask'd that only which he had ſet over them. If *Samuel* were not King, *Moſes*, *Joſhua*, and the other Judges were not Kings; for they were no more than he. They had therefore no King, and conſequently, if our Author ſays true, no Law. If they had no Law till *Saul* was King, they never had any; for he gave them none; and the Prophets were to blame for denouncing judgments againſt them for receding from, or breaking their Law, if they had none. He cannot ſay that *Samuel* gave them a Law; for that which he wrote in a Book, and laid up before the Lord, was not a Law to the People, but to the King. If it had bin a Law to the People, it muſt have bin made publick; but as it was only to the King, he laid it up before God, to teſtify againſt him if he ſhould adventure to break it. Or if it was a Law to the People, the matter is not mended; for it was given in the time of a King by one who was not King. But in truth it was the Law of the Kingdom by which he was King, and had bin wholly impertinent, if it was not to bind him; for it was given to no other perſon, and to no other end.

1 Sam. 10.

Our Author's Aſſertion on which all his Doctrin is grounded, *That there is no Nation that allows Children any action or remedy for being unjuſtly govern'd*, is as impudently falſe as any other propos'd by him: for tho a Child will

will not be heard that complains of the Rod; yet our own Law gives relief to Children againſt their Fathers, as well as againſt other perſons that do them injurys, upon which we ſee many ill effects, and I do rather relate than commend the practice. In other places the Law gives relief againſt the extravagances of which Fathers may be guilty in relation to their Children, tho not to that exceſs as to bring them ſo near to an equality as in *England*: They cannot impriſon, ſell, or kill their Children, without expoſing themſelves to the ſame puniſhments with other men; and if they take their Eſtates from them, the Law is open, and gives relief againſt them: but on the other ſide, Children are puniſh'd with Death, if they ſtrike or outrageouſly abuſe their Parents; which is not ſo with us. SECT. 1.

Now, if the Laws of Nations take ſuch care to preſerve private men from being too hardly us'd by their true and natural Fathers, who have ſuch a love and tenderneſs for them in their own Blood, that the moſt wicked and barbarous do much more frequently commit crimes for them than againſt them; how much more neceſſary is it to reſtrain the fury that Kings, who at the beſt are but phantaſtical Fathers, may exerciſe to the deſtruction of the whole People? 'Tis a folly to ſay that *David* and ſome other Kings have had, or that all ſhould have as tender an affection towards their People as towards their Children; for beſides that even the firſt Propoſition is not acknowledg'd, and will be hardly verify'd in any one inſtance, there is a vaſt diſtance between what men ought to be, and what they are. Every man ought to be juſt, true and charitable; and if they were ſo, Laws would be of no uſe: but it were a madneſs to aboliſh them upon a ſuppoſition that they are ſo; or to leave them to a future puniſhment, which many do not believe, or not regard. I am not oblig'd to believe that *David* lov'd every *Iſraelite* as well as his Son *Abſalom*; but tho he had, I could not from thence infer that all Kings do ſo, unleſs I were ſure that all of them were as wiſe and vertuous as he.

But to come more cloſe to the matter: Do we not know of many Kings who have come to their Power by the moſt wicked means that can enter into the heart of man, even by the moſt outrageous injurys done to the People, ſometimes by a foreign aid? as Kings were by the power of the *Romans* impos'd upon the *Britans*, that they might waſt the Forces, and break the Spirits of that fierce people. This *Tacitus* acknowledges, and ſays, * *That among other inſtruments of inſlaving Nations, they impos'd Kings upon them.* The *Medices* were made Maſters of *Florence* by the force of *Charles* the Fifth's Army. Sometimes by a corrupt party in their own Country they have deſtroy'd the beſt men, and ſubdu'd the reſt; as *Agathocles*, *Dionyſius*, and *Ceſar* did at *Rome* and *Syracuſe*. Others taking upon them to defend a People, have turn'd the Arms with which they were entruſted againſt their own Maſters; as *Franceſco Sforza*, who being choſen by thoſe of *Milan* to be their General againſt the *Venetians*, made peace with them, and by their aſſiſtance made himſelf Prince, or, in our Author's phraſe, Father of that great City. If theſe be acts of tenderneſs, love, juſtice, and charity, thoſe who commit them may well think they have gain'd the affections of their People, and grow to love thoſe from whom they fear nothing, and by whom they think they are

* Inter inſtrumenta ſervitutis reges habuere. *Tacit.*

lov'd. But if on the other hand they know they have attain'd to their greatneſs by the worſt of all Villanys, and that they are on that account become the object of the publick hatred, they can do no leſs than hate and fear thoſe by whom they know themſelves to be hated. The *Italians* ordinarily ſay that * he who dos an injury never pardons, becauſe he thinks he is never pardon'd: But he that enſlaves and oppreſſes a People dos an injury which can never be pardon'd, and therefore fears it will be reveng'd.

Other Princes who come to their Thrones by better ways, and are not contented with the power that the Law allows, draw the ſame hatred upon themſelves when they endeavour by force or fraud to enlarge it; and muſt neceſſarily fear and hate their own People as much as he who by the ways beforemention'd has betray'd or ſubdu'd them. Our Author makes nothing of this; but taking it for granted that it was all one whether *Samuel* ſpoke of a King or a Tyrant, declares that the ſame patient obedience is due to both; but not being pleas'd to give any reaſon why we ſhould believe him, I intend to offer ſome why we ſhould not.

Firſt, there is nothing in the nature or inſtitution of Monarchy that obliges Nations to bear the exorbitances of it when it degenerates into Tyranny.

In the ſecond place, we have no precept for it.

Thirdly, we have many approv'd examples, and occaſional particular commands to the contrary.

1. To the firſt: The point of Paternity being explain'd; the duty of Children to Parents prov'd to proceed from the benefits receiv'd from them, and that the power over them, which at the firſt ſeems to have bin left at large, becauſe it was thought they would never abuſe it, has long ſince bin much reſtrain'd in all civiliz'd Nations, and particularly in our own; We may conclude that men are all made of the ſame paſte, and that one ows no more to another than another to him, unleſs for ſome benefit receiv'd, or by virtue of ſome promiſe made. The duty ariſing from a benefit receiv'd muſt be proportionable to it: that which grows from a promiſe is determin'd by the promiſe or contract made, according to the true ſenſe and meaning of it. He therefore that would know what the *Babylonians*, *Hebrews*, *Athenians*, or *Romans* did owe to *Nimrod*, *Saul*, *Theſeus* or *Romulus*, muſt inquire what benefits were receiv'd from them, or what was promis'd to them. It cannot be ſaid that any thing was due to them for the ſake of their Parents; they could have no prerogative by birth: *Nimrod* was the ſixth Son of *Chuſh* the Son of *Cham*, who was the youngeſt Son of *Noah*; his Kingdom was erected whilſt *Noah* and his elder Sons *Shem* and *Japhet*, as well as *Cham*, *Chuſh* and his elder Sons were ſtill living. *Saul* was the Son of *Chiſh*, a man of *Benjamin*, who was the youngeſt Son of *Jacob*; and he was choſen in the moſt Democratical way by Lot amongſt the whole People. *Theſeus* according to the cuſtom of the times pretended to be the Son of *Neptune*; and *Rhea* was ſo well pleas'd with the Soldier that had gotten her with child, that ſhe reſolv'd to think or ſay that *Mars* was the Father of the Children, that is to ſay they were Baſtards; and therefore whatever was due to them was

* Chi fa injuria non perdona mai.

upon

upon their own perſonal account, without any regard to their Progenitors. This muſt be meaſur'd according to what they did for thoſe Nations before they were Kings, or by the manner of their advancement. Nothing can be pretended before they were Kings: *Nimrod* roſe up after the confuſion of Languages, and the People that underſtood the tongue he ſpoke, follow'd him; *Saul* was a young man unknown in *Iſrael*; *Theſeus* and *Romulus* had nothing to recommend them before other *Athenians* and *Romans*, except the reputation of their Valor; and the Honors confer'd upon them for that reaſon, muſt proceed from expectation or hope, and not from gratitude or obligation. It muſt therefore proceed from the manner by which they came to be Kings. He that neither is nor has any title to be a King, can come to be ſo only by force or by conſent. If by force, he dos not confer a Benefit upon the People, but injures them in the moſt outrageous manner. If it be poſſible therefore or reaſonable to imagin that one man did ever ſubdue a multitude, he can no otherwiſe reſemble a Father, than the worſt of all Enemys who dos the greateſt miſchiefs, reſembles the beſt of all Friends who confers the moſt ineſtimable benefits; and conſequently dos as juſtly deſerve the utmoſt effects of hatred, as the other dos of love, reſpect, and ſervice. If by conſent, he who is rais'd from amongſt the people, and plac'd above his Brethren, receives great honors and advantages, but confers none. The obligations of gratitude are on his ſide, and whatſoever he dos in acknowledgment to his Benefactors for their love to him, is no more than his duty; and he can demand no more from them than what they think fit to add to the favors already receiv'd. If more be pretended, it muſt be by virtue of that contract, and can no otherwiſe be prov'd than by producing it to be examin'd, that the true ſenſe, meaning, and intention of it may be known. SECT. II.

This Contract muſt be in form and ſubſtance according to a general Rule given to all mankind, or ſuch as is left to the will of every Nation. If a general one be pretended, it ought to be ſhown, that by inquiring into the contents, we may underſtand the force and extent of it. If this cannot be done, it may juſtly paſs for a fiction, no concluſion can be drawn from it; and we may be ſure, that what Contracts ſoever have bin made between Nations and their Kings, have bin fram'd according to the will of thoſe Nations; and conſequently how many ſoever they are, and whatſoever the ſenſe of any or all of them may be, they can oblige no man, except thoſe, or at the moſt the Deſcendents of thoſe that made them. Whoever therefore would perſuade us, that one or more Nations are, by virtue of thoſe Contracts, bound to bear all the inſolences of Tyrants, is oblig'd to ſhow, that by thoſe Contracts they did for ever indefinitely bind themſelves ſo to do, how great ſoever they might be.

I may juſtly go a ſtep farther, and affirm, That if any ſuch ſhould appear in the world, the folly and turpitude of the thing would be a ſufficient evidence of the madneſs of thoſe that made it, and utterly deſtroy the contents of it: but no ſuch having bin as yet produc'd, nor any reaſon given to perſuade a wiſe man, that there has ever bin any ſuch, at leaſt among civiliz'd Nations, (for whom only we are concern'd) it may be concluded there never was any; or if there were, they do not at all relate to our ſubject; and conſequently that Nations ſtill continue in their native Liberty, and are no otherwiſe oblig'd to endure the inſolence of Tyrants, than they, or each of them may eſteem them tolerable.

2. To

2. To the second: Tho the words of *Samuel* had imply'd a necessity incumbent upon the *Hebrews* to bear all the Injurys that their Kings should do to them, it could no way relate to us; for he dos not speak of all Kings, but of such as they had ask'd, even such as reign'd over the slavish *Asiaticks* their Neighbors, who are no less infamous in the world for their baseness and cowardice, than detestable for their idolatry and vices. It was not a plot or trick of *Samuel* to keep the Government in himself and Family; such scurrilous expressions or thoughts are fit only for *Filmer*, *Heylin*, and their Disciples: But the Prophet being troubled at the folly and wickedness of the people, who chose rather to subject themselves to the irregular Will of a Man, than to be govern'd by God and his Law, did, by the immediate command of God, declare to them what would be the event of their fury; that since they would be like to their Neighbors in sin and folly, he told 'em they should be like to them in shame and misery; since they desir'd to cast off the thing that was good, they should suffer evil as the product of their own Counsels; and that when they should cry to the Lord from a sense of their miserys, he dos not tell them, as our Author falsly says, they should have no other remedy against Tyrants but crying and praying, but that their crys and prayers should not be heard. It was just that when they had rejected God, he should reject them, and leave them under the weight of the calamitys they had brought upon themselves. In all other cases God had ever said, that when his People return'd to him, he would hear and save them. When they cry'd by reason of the oppressions they suffer'd under the *Egyptians*, *Cananites*, *Midianites*, *Philistins*, and others, tho their crimes had deserv'd them all, yet God heard and reliev'd them. But when they meditated this final defection from his Law, and rejection of his Government, God seem'd to change his Nature, and forget to be gracious; *When ye shall cry to me by reason of your King, I will not hear you.* This was the strongest dehortation from their wicked Intention that can be imagin'd; but being not enough to reclaim them, they answer'd, *Nay, but we will have a King.* They were like to their Neighbors in folly and vice, and would be like to them in Government; which brought all the Calamitys upon them that the others suffer'd. But I know not what conclusion can be drawn from hence in favor of our Author's Doctrin, unless all Nations are oblig'd furiously to run into the same crimes with the *Israelites*, or to take upon themselves the same punishment, tho they do not commit the same crimes.

If this was not a Precept to the *Israelites*, instructing them what they should do, but a denunciation of what they should suffer for the evil which they had committed, the Old Testament will afford none; and I hope in due time to answer such as he alledges from the New. Nay, we may conclude there can be none there, because being dictated by the same Spirit, which is always uniform and constant to it self, it could not agree with the 17*th* of *Deuteron.* which so extremely restrains such a King as God allow'd, as not to suffer him in any manner to raise his heart above his Brethren; and was said in vain, if at the same time it gave him a Power which might not be resisted, or forbad others to resist him if he would not obey the Law.

3. To the third: Whatsoever was done by the Command of God against *Pharaoh* King of *Egypt*, and against the Kings of the *Cananites*, *Midianites*, *Moabites*, *Edomites*, *Amorites* or *Philistins*, by *Moses*, *Joshua*, *Ehud*,

Ehud, *Barak*, *Gideon*, *Sampſon*, *Jephtha*, *Samuel*, and the reſt of the Judges, comes expreſly under the particular Precepts and Examples promis'd by me, to ſhow, that God had occaſionally commanded, and his Servants executed his Commands in reſiſting and deſtroying the Perſons of Kings, who were their own Kings alſo, if Poſſeſſion was only to be regarded. And tho this be ſufficient to overthrow our Author's Doctrin; *That we are not to examin the Titles of Kings, whether they be from uſurpation, or any other means; but only to look upon the Power:* Yet they who ſeek Truth, ought not to content themſelves merely with Victory; or to eſteem that a Victory, which is obtain'd by what the Schools call *Argumentum ad hominem*, grounded upon a falſe Propoſition, and is of no force except againſt thoſe who are ſo ill advis'd to advance it. Therefore laying aſide the advantages that may be juſtly taken againſt *Filmer*, for the folly of aſſerting the ſame Right to be in a Uſurper as in a lawful Prince; and confeſſing that tho ſuch as have no Title, may and ought to be ſuppreſt as Enemys and Robbers, when reſpect and obedience is due to thoſe who are rightly inſtituted; I ſay, that none can be claim'd by a Prince lawfully inſtituted, if he aſſumes to himſelf a Power which is not granted to him by the Law of his Inſtitution, * becauſe, as *Grotius* ſays, *his legal Power does not extend ſo far*; or turn the Power that is given him, to ends contrary to thoſe for which it was given, becauſe he thereby deſtroys it, and puts himſelf into the ſame condition as if it had never bin. This is prov'd by the Example of *Saul*; Tho the people ſinn'd grievouſly in asking a King, yet God aſſenting to their demand, no Prince was ever more ſolemnly inſtituted than he. The People choſe him by Lot from amongſt all the Tribes, and he was plac'd in the Throne by the general conſent of the whole Nation: But he turning his lawful Power into Tyranny, diſobeying the word of the Prophet, ſlaying the Prieſts, ſparing the *Amalekites*, and oppreſſing the Innocent, overthrew his own Right; and God declar'd the Kingdom, which had bin given him under a conditional promiſe of perpetuity, to be intirely abrogated. This did not only give a right to the whole People of oppoſing him, but to every particular man; and upon this account *David* did not only fly from his fury, but reſiſted it. He made himſelf head of all the diſcontented Perſons that would follow him: he had at firſt four, and afterwards ſix hundred men; he kept theſe in Arms againſt *Saul*, liv'd upon the Country, and reſolv'd to deſtroy *Nabal* with all his Houſe, only for refuſing to ſend Proviſions for his men. Finding himſelf weak and unſafe, he went to *Achiſh* the *Philiſtin*, and offer'd his ſervice even againſt *Iſrael*. This was never reputed a ſin in *David*, or in thoſe that follow'd him, by any except the wicked Court-flatterer *Doeg* the *Edomite*, and the drunken fool *Nabal*, who is ſaid to have bin a man of *Belial*.

SECT. 1.

If it be objected, That this was rather a Flight than a War, in as much as he neither kill'd *Saul* nor his men, or that he made war as a King anointed by *Samuel*; I anſwer, that he who had ſix hundred men, and entertain'd as many as came to him, ſufficiently ſhew'd his intention rather to reſiſt than to fly: And no other reaſon can be given why he did not farther purſue that intention, than that he had no greater power: and he who arms ſix hundred men againſt his Prince, when he can have no more, can no more be ſaid to obey patiently, than if he had ſo many

* Quia eatenus non habet imperium. *De Jur. Bel.*

hundreds

CHAP. III. hundreds of thouſands. This holds, tho he kills no man, for that is not the War, but the manner of making it: and 'twere as abſurd to ſay *David* made no War, becauſe he kill'd no men, as that *Charles* the eighth made no War in *Italy*, becauſe *Guicciardin* ſays, he conquer'd *Naples* without breaking a Lance. But as *David*'s ſtrength increas'd, he grew to be leſs ſparing of Blood. Thoſe who ſay Kings never die, but that the right is immediatly transfer'd to the next Heirs, cannot deny that *Iſhboſheth* inherited the right of *Saul*, and that *David* had no other right of making war againſt him, than againſt *Saul*, unleſs it were confer'd upon him by the Tribe of *Judah* that made him King. If this be true, it muſt be confeſt that not only a whole People, but a part of them, may at their own pleaſure abrogate a Kingdom, tho never ſo well eſtabliſh'd by common conſent; for none was ever more ſolemnly inſtituted than that of *Saul*; and few Subjects have more ſtrongly oblig'd themſelves to be obedient. If it be not true, the example of *Nabal* is to be follow'd; and *David*, tho guided by the Spirit of God, deſerves to be condemn'd as a fellow that roſe up againſt his Maſter.

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CHAP. III. King, and anointed by the hand of the Prophet, was not King till the People had choſen him, and he had made a Covenant with them; it will, if I miſtake not, be hard to find a man who can claim a right which is not originally from them. And if the People of *Iſrael* could erect and pull down, inſtitute, abrogate, or transfer to other Perſons or Familys, Kingdoms more firmly eſtabliſh'd than any we know, the ſame right cannot be deny'd to other Nations.

SECT. II.

The Kings of Iſrael *and* Judah *were under a Law not ſafely to be tranſgreſt.*

OUR Author might be pardon'd if he only vented his own follys; but he aggravates his crime, by imputing them to men of more Credit; and tho I cannot look upon Sir *Walter Raleigh* as a very good Interpreter of Scripture, he had too much underſtanding to ſay, *That if practice declare the greatneſs of Authority, even the beſt Kings of* Iſrael *and* Judah *were not ty'd to any Law, but they did whatſoever they pleas'd in the greateſt matters*; for there is no ſenſe in thoſe words. *If Practice declares the greatneſs of Authority, even the beſt of Kings were ty'd to no Law*, ſignifies nothing, for Practice cannot declare the greatneſs of Authority. *Peter* the Cruel of *Caſtille*, and *Chriſtiern* the 2*d* of *Denmark*, kill'd whom they pleas'd; but no man ever thought they had therefore a right to do ſo: and if there was a Law, all were ty'd by it, and the beſt were leſs likely to break it than the worſt. But if Sir *Walter Raleigh*'s opinion, which he calls a conjecture, be taken, there was ſo great a difference between the Kings of *Iſrael* and *Judah*, that as to their general proceedings in point of Power, hardly any thing can be ſaid which may rightly be apply'd to both; and he there endeavours to ſhow, that the reaſon why the ten Tribes did not return to the houſe of *David*, after the deſtruction of the houſes of *Jeroboam* and *Baaſha*, was, becauſe they would not endure a Power ſo abſolute as that which was exercis'd by the houſe of *David*. If he has therefore any where ſaid that the Kings did what they pleas'd, it muſt be in the ſenſe that *Moſes Maimonides* ſays, The Kings of *Iſrael* committed many extravagances, becauſe they were * *inſolent, impious, and deſpiſers of the Law*. But whatſoever Sir *Walter Raleigh* may ſay (for I do not remember his words, and have not leiſure to ſeek whether any ſuch are found in his Books) 'tis moſt evident they did not what they pleas'd. The Tribes that did not ſubmit to *David*, nor crown him till they thought fit, and then made a Covenant with him, took care it might be obſerv'd whether he would or not. *Abſalom*'s Rebellion follow'd by almoſt all *Iſrael*, was a terrible check to his Will. That of *Sheba*, the Son of *Bichri*, was like to have bin worſe, if it had not bin ſuppreſt by *Joab*'s diligence; and *David* often confeſt the Sons of *Zerviah* were too hard for him. *Solomon* indeed, overthrowing the Law given by *Moſes*, multiplying Gold and Silver, Wives and Horſes, introducing Idolatry,

2 L. Hiſt. c. 19.

* Quia ſuperbi erant corde, impii, & ſpretores Legis. *Mor. Nevoch.*

and

and lifting up his heart above his Brethren, did what he pleas'd; but *Re-* SECT. 2.
hoboam paid for all: the ten Tribes revolted from him, by reaſon of the heavy burdens laid upon them; ſton'd *Adoram* who was ſent to levy the Tributes, and ſet up *Jeroboam*, who, as Sir *Walter Raleigh* ſays in the place before cited, had no other Title than the courteſy of the People, and utterly rejected the houſe of *David*. If practice therefore declares a right, the practice of the People to avenge the injurys they ſuffer'd from their Kings, as ſoon as they found a man fit to be their Leader, ſhews they had a right of doing it.

'Tis true, the beſt of the Kings, with *Moſes*, *Joſhua*, and *Samuel*, may in one ſenſe be ſaid to have done what they pleas'd, becauſe they deſir'd to do that only which was good. But this will hardly be brought to confer a right upon all Kings: And I deny that even the Kings of *Judah* did what they pleas'd, or that it were any thing to our queſtion if they did. *Zedekiah* profeſt to the great men (that is, to the *Sanhedrin*) *that without them he could do nothing*. When *Amaziah*, by his folly, had brought a great ſlaughter upon the Tribe of *Judah*, they conſpir'd againſt him in publick Council; whereupon he fled to *Lachiſh*, and they purſuing him thither, kill'd him, avow'd the Fact, and it was neither queſtion'd, nor blam'd: which examples agree with the paraphraſe of *Joſephus* on *Deut.* 17. *He ſhall do nothing without the conſent of the* Sanhedrin; *and if he attempt it, they ſhall hinder him.* This was the Law of God, not to be abrogated by Man; a Law of Liberty directly oppoſite to the neceſſity of ſubmitting to the will of a man. This was a Gift beſtow'd by God upon his Children and People; whereas ſlavery was a great part of the Curſe denounc'd againſt *Cham* for his wickedneſs, and perpetually incumbent upon his Poſterity. The great *Sanhedrin* were conſtituted Judges, as *Grotius* ſays, moſt particularly of ſuch matters as concern'd their Kings; and *Maimonides* affirms, that the Kings were judg'd by them: The diſtribution of the power to the inferior *Sanhedrins*, in every Tribe and City, with the right of calling the People together in general Aſſemblys as often as occaſion requir'd, were the foundations of their Liberty; and being added to the Law of the Kingdom preſcrib'd in the 17*th* of *Deuteronomy*, if they ſhould think fit to have a King, eſtabliſh'd the Freedom of that People upon a ſolid foundation. And tho in their fury they did in a great meaſure wave the benefits God had beſtow'd upon 'em; yet there was enough left to reſtrain the Luſts of their Kings. *Ahab* did not treat with *Naboth* as with a Servant, whoſe Perſon and Eſtate depended upon his Will; and dos not ſeem to have bin ſo tender-hearted to grieve much for his refuſal, if by virtue of his Royal Authority he could have taken away his Vineyard and his Life: But that failing, he had no other way of accompliſhing his deſign, than by the fraud of his accurſed Wife, and the perfidious Wretches ſhe imploy'd. And no better proof that it did fail, can reaſonably be requir'd, than that he was oblig'd to have recourſe to ſuch ſordid, odious, and dangerous Remedys: But we are furniſh'd with one that is more unqueſtionable; *Haſt thou kill'd, and alſo taken poſſeſſion? In the place where Dogs lick'd the blood of* Naboth, *ſhall they lick thy Blood, even thine.* This ſhews that the Kings were not only under a Law, but under a Law of equality with the reſt of the People, even that of Retaliation. He had rais'd his heart above his Brethren; but God brought him down, and made him to ſuffer what he had done; he was in all reſpects wicked, but the juſtice of this ſentence conſiſted in the Law he had broken, which could not have bin, if he had bin ſubject to none. But

Jerem. 38.

2 Kings 14.

Antiq. Jud.

1 Kings 21.

CHAP. III. as this Retaliation was the ſum of all the Judicial Law given by God to his People, the Sentence pronounc'd againſt *Ahab* in conformity to it, and the execution committed to *Jehu*, ſhews, that the Kings were no leſs oblig'd to perform the Law than other men, tho they were not ſo eaſily puniſh'd for tranſgreſſing it as others were; and if many of them did eſcape, it perfectly agrees with what had bin foretold by *Samuel*.

SECT. III.

Samuel *did not deſcribe to the* Iſraelites *the glory of a free Monarchy; but the Evils the People ſhould ſuffer, that he might divert them from deſiring a King.*

THO no reſtraint had bin put upon the Hebrew Kings, it could be no prejudice to any other Nation. They deflected from the Law of God; and rejecting him that he ſhould reign over them no longer, they fell into that miſery which could affect none but thoſe who enjoy the ſame Bleſſings, and with the ſame fury deſpiſe them. If their Kings had more Power than conſiſted with their welfare, they gave it, and God renounces the inſtitution of * ſuch. He gave them a Law of Liberty; and if they fell into the ſhame and miſery that accompanys ſlavery, it was their own work. They were not oblig'd to have any King; and could not without a crime have any but one, who muſt not raiſe his heart above the reſt of them. This was taught by *Moſes*: And *Samuel*, who ſpoke by the ſame Spirit, could not contradict him; and in telling the People what ſuch a King as they deſir'd would do when he ſhould be eſtabliſh'd, he did announce to them the miſery they would bring upon themſelves, by chuſing ſuch a one as he had forbidden. This free Monarchy, which our Author thinks to be ſo majeſtically deſcrib'd, was not only diſpleaſing to the Prophet, but declar'd by God to be a rejection of him, and inconſiſtent with his reign over them. This might have bin ſufficient to divert any other people from their furious reſolution; but the Prophet farther enforcing his diſſuaſion, told them, that God (who had in all other caſes bin their helper) would not hear them when they ſhould cry to him by reaſon of their King. This is the majeſtick deſcription of that free Monarchy with which our Author is ſo much pleas'd: It was diſpleaſing to the Prophet, hateful to God, an aggravation of all the crimes they had committed ſince they came out of *Egypt*, and that which would bring (as it did) moſt certain and irreparable deſtruction upon them.

But it ſeems the Regal Majeſty in that Age was in its infancy, and little in compariſon of that which we find deſcrib'd by *Tacitus*, *Suetonius*, and others in later times. He ſhall take your Sons, ſays *Samuel*, and ſet them over his Chariots, and your Daughters to make them Confectioners and Cooks; but the Majeſty of the *Roman* Emperors was carry'd to a higher pitch of Glory. *Ahab* could not, without employing treachery and fraud, get a ſmall ſpot of ground for his mony to make a Garden of Herbs: But

* *Ye have choſen Kings, but not by me; and Princes, but I know them not.* Hoſ.

Tiberius,

Tiberius, *Caligula* and *Nero* kill'd whom they pleas'd, and took what they pleas'd of their Eſtates. When they had ſatiated their cruelty and avarice by the murders and confiſcations of the moſt eminent and beſt men, they commonly expos'd their Children to the Luſt of their Slaves. If the power of doing evil be glorious, the utmoſt exceſs is its perfection; and 'tis pity that *Samuel* knew no more of the effects produc'd by unreſtrain'd Luſt, that he might have made the deſcription yet more majeſtick: and as nothing can be ſuffer'd by man beyond conſtupration, torments and death, inſtead of ſuch trifles as he mention'd, he might have ſhew'd them the effects of Fury in its greateſt exaltation. SECT. 3.

If it be good for a Nation to live under ſuch a Power, why did not God of his own goodneſs inſtitute it? Did his Wiſdom and Love to his People fail? or if he himſelf had not ſet up the beſt Government over them, could he be diſpleas'd with them for asking it? Did he ſeparate that Nation from the reſt of Mankind, to make their condition worſe than that of others? Or can they be ſaid to have ſin'd and rejected God, when they deſir'd nothing but the Government, which by a perpetual Ordinance he had eſtabliſh'd over all the Nations of the World? Is not the Law of Nature a Rule which he has given to things? and the Law of man's Nature, which is Reaſon, an emanation of the divine Wiſdom, or ſome footſteps of divine Light remaining in us? Is it poſſible that this which is from God, can be contrary to his Will; and can he be offended with thoſe who deſire to live in a conformity to that Law? Or could it juſtly be ſaid, The People had choſen that which is not good, if nothing in Government be good but what they choſe?

But as the worſt men delight in the worſt things, and Fools are pleas'd with the moſt extreme abſurditys, our Author not only gives the higheſt praiſes to that which bears ſo many marks of God's hatred; but after having ſaid that *Abraham*, *Iſaac*, *Jacob*, and *Moſes* were Kings, he tells us, *The* Iſraelites *beg'd a King of* Samuel; which had bin impertinent, if the Magiſtrats inſtituted by the Law were Kings: and tho it might be a folly in them to ask what they had already, it could be no ſin to deſire that which they enjoy'd by the Ordinance of God. If they were not Kings, it follows that the only Government ſet up by God amongſt men wanted the principal part, even the Head and Foundation, from whence all the other parts have their action and being; that is, God's Law is againſt God's Law, and deſtroys it ſelf.

But if God did neither by a general and perpetual Ordinance eſtabliſh over all Nations the Monarchy which *Samuel* deſcribes, nor preſcribe it to his own People by a particular Command, it was purely the Peoples Creature, the production of their own fancy, conceiv'd in wickedneſs, and brought forth in iniquity, an Idol ſet up by themſelves to their own deſtruction, in imitation of their accurſed Neighbours; and their Reward was no better than the conceſſion of an impious Petition, which is one of God's heavieſt Judgments. *Samuel*'s words are acknowledg'd by all Interpreters, who were not malicious or mad, to be a diſſuaſion from their wicked purpoſe; not a deſcription of what a King might juſtly do by virtue of his Office, but what thoſe who ſhould be ſet up againſt God and his Law would do when they came to have the power in their hands: And I leave ſuch as have the underſtandings of men, and are not abandon'd by God, to judg what influence this ought to have upon other Nations, either as to obligation or imitation.

SECT.

SECT. IV.

No People can be oblig'd to ſuffer from their Kings what they have not a right to do.

OUR Author's next work is to tell us, That *the ſcope of* Samuel *was to teach the People a dutiful obedience to their King, even in the things that they think miſchievous or inconvenient: For by telling them what the King would do, he indeed inſtructs them what a Subject muſt ſuffer: Yet not ſo that it is right for Kings to do injury, but it is right for them to go unpuniſh'd by the People if they do it; ſo that in this point it is all one whether* Samuel *deſcribe a King or a Tyrant.* This is hard, but the Concluſion is grounded upon nothing. There is no relation between a Prediction that a thing ſhall be attempted or done to me, and a Precept that I ſhall not defend my ſelf, or puniſh the perſon that attempts or dos it. If a Prophet ſhould ſay that a Thief lay in the way to kill me, it might reaſonably perſuade me not to go, or to go in ſuch a manner as to be able to defend my ſelf; but can no way oblige me to ſubmit to the violence that ſhall be offer'd, or my Friends and Children not to avenge my death if I fall: much leſs can other men be depriv'd of the natural right of defending themſelves, by my imprudence or obſtinacy in not taking the warning given, whereby I might have preſerv'd my life. For every man has a right of reſiſting ſome way or other that which ought not to be done to him; and tho human Laws do not in all caſes make men Judges and Avengers of the Injurys offer'd to them, I think there is none that dos not juſtify the man who kills another that offers violence to him, if it appears that the way preſcrib'd by the Law for the preſervation of the Innocent cannot be taken. This is not only true in the caſe of outrageous attempts to aſſaſſinate or rob on the high way, but in divers others of leſs moment. I knew a man who being appointed to keep his Maſter's Park, kill'd three men in one night that came to deſtroy his Deer; and putting himſelf into the hands of the Magiſtrate, and confeſſing the Fact both in matter and manner, he was at the publick Aſſizes not only acquitted, but commended for having done his duty; and this in a time when 'tis well known Juſtice was ſeverely adminiſter'd, and little favor expected by him or his Maſter. Nay, all Laws muſt fall, human Societys that ſubſiſt by them be diſſolv'd, and all innocent perſons be expos'd to the violence of the moſt wicked, if men might not juſtly defend themſelves againſt injuſtice by their own natural right, when the ways preſcrib'd by publick Authority cannot be taken.

Our Author may perhaps ſay, this is true in all except the King: And I deſire to know why, if it be true in all except the King, it ſhould not be true in relation to him? Is it poſſible that he who is inſtituted for the obtaining of Juſtice, ſhould claim the liberty of doing Injuſtice as a Privilege? Were it not better for a people to be without Law, than that a Power ſhould be eſtabliſh'd by Law to commit all manner of violences with impunity? Did not *David* reſiſt thoſe of *Saul?* Did he not make himſelf head of the Tribe of *Judah*, when they revolted againſt his Son, and afterwards of the ten Tribes that rejected his Poſterity?

rity? Did not the *Iſraelites* ſtone *Adoram* who collected the Taxes, revolt from the Houſe of *David*, ſet up *Jeroboam*; and did not the Prophet ſay it was from the Lord? If it was from the Lord, was it not good? If it was good then, is it not ſo for ever? Did good proceed from one root then, and from another now? If God had aveng'd the Blood of *Naboth* by fire from Heaven, and deſtroy'd the Houſe of *Ahab*, as he did the two Captains and their men who were ſent to apprehend *Elijah*, it might be ſaid, he reſerv'd that vengeance to himſelf; but he did it by the Sword of *Jehu* and the Army (which was the People who had ſet him up) for an Example to others. SECT. 4.

But 'tis good to examin what this *dutiful Obedience* is that our Author mentions. Men uſually owe no more than they receive. 'Tis hard to know what the *Iſraelites* ow'd to *Saul*, *David*, *Jeroboam*, *Ahab*, or any other King, whether good or bad, till they were made Kings: And the Act of the People by which ſo great a dignity was confer'd, ſeems to have laid a duty upon them, who did receive more than they had to give: ſo that ſomething muſt be due from them, unleſs it were releas'd by virtue of a Covenant or Promiſe made; and none could accrue to them from the people afterwards, unleſs from the merit of the perſon in rightly executing his Office. If a Covenant or Promiſe be pretended, the nature and extent of the Obligation can only be known by the contents expreſt, or the true intention of it. If there be a general form of Covenant ſet and agreed upon, to which all Nations muſt ſubmit, it were good to know where it may be found, and by whoſe Authority it is eſtabliſh'd, and then we may examin the ſenſe of it. If no ſuch do appear, we may rationally look upon thoſe to be Impoſtors, who ſhould go about from thence to derive a right: And as that which dos not appear, is as if it were not, we may juſtly conclude there is no other, or none that can have any effect, but ſuch as have bin made by particular Nations with their Princes; which can be of no force or obligation to others, nor to themſelves, any farther than according to the true intention of thoſe that made them. There is no ſuch thing therefore as a dutiful obedience, or duty of being obedient, incumbent upon all Nations by virtue of any Covenant; nor upon any particular Nation, unleſs it be expreſt by a Covenant: and whoever pretends to a right of taking our Sons and Daughters, Lands or Goods, or to go unpuniſh'd if he do, muſt ſhow that theſe things are expreſt or intended by the Covenant.

But tho Nations for the moſt part owe nothing to Kings till they are Kings, and that it can hardly be conceiv'd, that any people did ever owe ſo much to a man, as might not be fully repaid by the honor and advantages of ſuch an advancement; yet 'tis poſſible that when they are made Kings, they may by their good Government lay ſuch Obligations upon their Subjects, as ought to be recompens'd by obedience and ſervice. There is no mortal Creature that deſerves ſo well from mankind, as a wiſe, valiant, diligent and juſt King, who as a Father cheriſhes his People; as a Shepherd feeds, defends, and is ready to lay down his life for his flock; who is a terror to evil doers, and a praiſe to thoſe that do well. This is a glorious Prerogative, and he who has it is happy. But before this can be adjudg'd to belong to all, it muſt be prov'd that all have the Vertues that deſerve it; and he that exacts the dutiful Obedience that ariſes from them, muſt prove that they are in him. He that dos this, need not plead for impunity when he dos injurys; for if he do them, he is not the man we ſpeak of: Not being ſo, he can have no title

to

CHAP. III. to the duty by human Inſtitution or Covenant; nor by divine Law, ſince, as is already prov'd, God has neither eſtabliſh'd Kings over all Nations by Precept, nor recommended them by Example, in ſetting them over his own People. He has not therefore done it at all; there is no ſuch thing in nature; and Nations can owe nothing to Kings merely as Kings, but what they owe by the Contract made with them.

As theſe Contracts are made voluntarily, without any previous obligation, 'tis evident that men make them in conſideration of their own good, and they can be of force no longer, than he with whom they are made perform his part in procuring it; and that if he turn the power which was given to him for the publick good, to the publick inconvenience and damage, he muſt neceſſarily loſe the benefit he was to receive by it. The word *think* is fooliſhly and affectedly put in by our Author; for thoſe matters are very often ſo evident, that even the weakeſt know them. No great ſagacity is requir'd to underſtand that leud, ſlothful, ignorant, falſe, unjuſt, covetous and cruel Princes bring inconveniences and miſchiefs upon Nations; and many of them are ſo evidently guilty of ſome or all theſe Vices, that no man can be miſtaken in imputing them; and the utmoſt Calamitys may rationally be expected from them, unleſs a Remedy be apply'd.

But, ſays he, *Samuel* by telling them *what the King would do, inſtructs them what the Subjects muſt ſuffer, and that 'tis right he ſhould go unpuniſh'd.* But, by his favor, *Samuel* ſays no ſuch thing; neither is it to be concluded, that becauſe a King will do wickedly, he muſt be ſuffer'd, any more than a private man, who ſhould take the ſame Reſolution. But he told them, that *when they ſhould cry to the Lord by reaſon of their King, he would not hear them.* This was as much as to ſay, their ruin was unavoidable; and that, having put the power into the hands of thoſe, who inſtead of protecting would oppreſs them; and thereby having provok'd God againſt them, ſo as he would not hearken to their cries, they could have no relief. But this was no ſecurity to the Authors of their Calamity. The Houſes of *Jeroboam*, *Baaſha* and *Omri*, eſcap'd not unpuniſh'd, tho the People did not thereby recover their Liberty. The Kings had introduc'd a Corruption that was inconſiſtent with it. But they who could not ſettle upon a right Foundation to prevent future miſchiefs, could avenge ſuch as they had ſuffer'd, upon the heads of thoſe who had caus'd 'em, and frequently did it moſt ſeverely. The like befel the *Romans*, when by the violence of Tyranny all good Order was overthrown, good Diſciplin extinguiſh'd, and the People corrupted. Ill Princes could be cut in pieces, and miſchiefs might be reveng'd, tho not prevented. But 'tis not ſo every where, nor at all times; and nothing is more irrational, than from one or a few Examples to conclude a general neceſſity of future Events. They alter according to Circumſtances: and as ſome Nations by deſtroying Tyrants could not deſtroy Tyranny; others in removing the Tyrant, have cut up Tyranny by the roots. This variety has bin ſeen in the ſame Nation at different times: The *Romans* recover'd their Liberty by expelling *Tarquin*; but remain'd Slaves notwithſtanding the ſlaughter of *Ceſar*. Whilſt the Body of the People was uncorrupted, they cur'd the Evil wrought by the Perſon, in taking him away. It was no hard matter to take the Regal Power that by one man had bin enjoy'd for life, and to place it in the hands of two annual Magiſtrats, whilſt the Nobility and People were, according to the condition of that Age, ſtrong and ready to maintain it. But when the miſchief had taken deeper root;

when

when the beſt part of the people had periſh'd in the Civil Wars; when all their eminent men had fallen in battel, or by the Proſcriptions; when their Diſciplin was loſt, and Vertue aboliſh'd, the poor remains of the diſtreſt people were brought under the power of a mercenary Soldiery, and found no relief. When they kill'd one Tyrant, they often made room for a worſe: It avail'd them nothing to cut off a rotten Branch, whilſt the accurſed Root remain'd, and ſent forth new Sprouts of the ſame nature to their deſtruction. Other generous Nations have bin ſubdu'd beyond a poſſibility of recovery; and thoſe that are naturally baſe, ſlide into the like miſery without the impulſe of an exterior Power. They are Slaves by nature, and have neither the underſtanding nor courage that is requir'd for the conſtitution and management of a Government within themſelves. They can no more ſubſiſt without a Maſter, than a flock without a Shepherd. They have no comprehenſion of Liberty, and can neither deſire the good they do not know, nor enjoy it if it were beſtow'd upon them. They bear all burdens; and whatever they ſuffer, they have no other remedy or refuge, than in the mercy of their Lord. But ſuch Nations as are naturally ſtrong, ſtout, and of good underſtanding, whoſe vigor remains unbroken, manners uncorrupted, reputation unblemiſh'd, and increaſing in numbers; who neither want men to make up ſuch Armys as may defend 'em againſt foreign or domeſtick Enemys, nor Leaders to head them, do ordinarily ſet limits to their patience. They know how to preſerve their Liberty, or to vindicate the violation of it; and the more patient they have bin, the more inflexible they are when they reſolve to be ſo no longer. Thoſe who are ſo fooliſh to put them upon ſuch courſes, do to their coſt find there is a difference between Lions and Aſſes; and he is a fool who knows not that * Swords were given to men, that none might be Slaves, but ſuch as know not how to uſe them.

SECT. 5.

* Ignoratq; datos ne quiſquam ſerviat enſes. *Lucan.*

SECT. V.

The Miſchiefs ſuffer'd from wicked Kings are ſuch as render it both reaſonable and juſt for all Nations that have Vertue and Power, to exert both in repelling them.

IF our Author deſerve credit, we need not examin whether Nations have a right of reſiſting, or a reaſonable hope of ſucceeding in their endeavours to prevent or avenge the Miſchiefs that are fear'd or ſuffer'd, for 'tis not worth their pains. *The Inconveniences*, ſays he, *and Miſerys which are reckon'd up by* Samuel, *as belonging to Kingly Government, were not intolerable, but ſuch as have bin and ſtill are born by the Subjects free conſent from their Princes. Nay at this day, and in this Land, many Tenants by their Tenures are ty'd unto the ſame ſubjection, even unto ſubordinate and inferior Lords.* He is an excellent Advocate for Kingly Government, that accounts Inconveniences and Miſerys to be ſome of the eſſentials of it; which others eſteem to be only incidents. Tho many Princes are violent and wicked, yet ſome have bin gentle and juſt: tho many have brought miſery upon Nations, ſome have bin beneficial to them: and they who are eſteem'd moſt ſevere againſt Monarchy, think the evils often

CHAP. III.

ſuffer'd under that form of Government proceed from the Corruption of it, or deviation from the principle of its inſtitution; and that they are rather to be imputed to the vices of the Perſon, than to the thing it ſelf: but if our Author ſpeak truth, it is univerſally and eternally naught, inconvenience and miſery belong to it.

He thinks to mend this by ſaying, they are not intolerable: but what is intolerable, if Inconveniences and Miſerys be not? For what end can he think Governments to have bin eſtabliſh'd, unleſs to prevent or remove Inconveniences and Miſerys? or how can that be call'd a Government which dos not only permit, but cauſe them? What can incline Nations to ſet up Governments? Is it that they may ſuffer Inconveniences, and be brought to miſery? or if it be to enjoy happineſs, how can that ſubſiſt under a Government, which not by accident, deflection or corruption, but by a neceſſity inherent in it ſelf, cauſes Inconveniences and Miſerys? If it be pretended that no human Conſtitution can be altogether free from Inconveniences; I anſwer, that the beſt may to ſome degree fall into them, becauſe they may be corrupted: but evil and miſery can properly belong to none that is not evil in its own nature. If *Samuel* deſerve credit, or may be thought to have ſpoken ſenſe, he could not have enumerated the evils which he foreſaw the People ſhould ſuffer from their Kings, nor ſay that they ſhould cry to the Lord by reaſon of them, unleſs they were in themſelves grievous, and in compariſon greater than what they had ſuffer'd or known; ſince that would not have diverted them from their intention, but rather have confirm'd 'em in it. And I leave it to our Author to ſhow, why any People ſhould for the pleaſure of one or a few men, erect or ſuffer that Government which brings more of evil with it than any other.

Moreover, there is a great difference between that which Nations ſometimes ſuffer under Kings, and that which they willingly ſuffer; moſt eſpecially if our Author's Maxim be receiv'd, That all Laws are the Mandates of Kings, and the Subjects Libertys and Privileges no more than their gracious Conceſſions; for how patient ſoever they are under the Evils they ſuffer, it might reaſonably be believ'd they are ſo becauſe they know not how to help it: And this is certainly the caſe of too many places that are known to us. Whoever doubts of this, if he will not put himſelf to the trouble of going to *Turky* or *Morocco*, let him paſs only into *Normandy*, and ask the naked, bare-footed and half-ſtarv'd people whether they are willing to ſuffer the Miſerys under which they groan; and whether the magnificence of *Verſailles*, and the pomp of their haughty Maſter, do any way alleviate their Calamitys. If this alſo be a matter of too much pains, the Wretches that come hither every day will inform him, that it is not by their own conſent they are depriv'd of all Honors and Offices in the Commonwealth, even of thoſe, which by a corrupt Cuſtom that had gain'd the force of a Law, they had dearly bought; prohibited to exerciſe any trade; expos'd to the utmoſt effects of fraud and violence, if they refuſe to adore their Maſter's Idols. They will tell him, that 'tis not willingly they leave their Lands and Eſtates to ſeek a ſhelter in the moſt remote parts of the World; but becauſe they are under a force which they are not able to reſiſt; and becauſe one part of the Nation, which is enrich'd with the Spoils of the other, have fooliſhly contributed to lay a Yoke upon them which they cannot break.

To what he ſays concerning Tenures, I anſwer; No man in *England* ows any ſervice to his Lord, unleſs by virtue of a Contract made by himſelf

ſelf or his Predeceſſors, under which he holds the Land granted to him on that condition by the Proprietor. There may be ſomething of hardſhip, but nothing of injuſtice. 'Tis a voluntary act in the beginning and continuance; and all men know that what is done to one who is willing *is no injury. He who did not like the Conditions, was not oblig'd to take the Land; and he might leave it, if afterwards he came to diſlike them. If any man ſay, the like may be done by any one in the Kingdom, I anſwer, That it is not always true; the Proteſtants now in *France* cannot without extreme hazard go out of that Country, tho they are contented to loſe their Eſtates. 'Tis accounted a Crime, for which they are condemn'd perpetually to the Gallys, and ſuch as are aiding to them to grievous Fines. But before this be acknowledg'd to have any ſimilitude or relation to our diſcourſe concerning Kings, it muſt be prov'd, that the preſent King, or thoſe under whom he claims, is or were Proprietors of all the Lands in *England*, and granted the ſeveral parcels under the condition of ſuffering patiently ſuch Inconveniences and Miſerys as are above-mention'd: or that they who did confer the Crown upon any of them, did alſo give a Propriety in the Land; which I do not find in any of the fifteen or ſixteen Titles that have bin ſince the coming in of the *Normans*: and if it was not done to the firſt of every one, it cannot accrue to the others, unleſs by ſome new act to the ſame purpoſe, which will not eaſily be produc'd. SECT. 5.

It will be no leſs difficult to prove that any thing unworthy of Freemen is by any Tenures impos'd in *England*, unleſs it be the offering up of the Wives and Daughters of Tenants to the Luſt of Abbots and Monks; and they are ſo far from being willingly ſuffer'd, that ſince the Dens and Nurſerys of thoſe Beaſts were aboliſh'd, no man that ſucceeds them has had impudence ſufficient to exact the performance: and tho the letter of the Law may favor them, the turpitude of the thing has extinguiſh'd the uſage.

But even the Kings of *Iſrael* and *Judah*, who brought upon the People thoſe evils that had bin foretold by *Samuel*, did not think they had a right to the Powers they exercis'd. If the Law had given a right to *Ahab* to take the beſt of their Vineyards, he might without ceremony have taken that of *Naboth*, and by the majeſtick power of an abſolute Monarch, have chaſtis'd the churliſh Clown, who refus'd to ſell or change it for another: but for want of it, he was oblig'd to take a very different courſe. If the lives of Subjects had in the like manner depended on the will of Kings, *David* might without ſcruple have kill'd *Uriah*, rather than to place him in the front of the Army that he might fall by his own courage. The malice and treachery of ſuch Proceedings argues a defect of power; and he that acts in ſuch an oblique manner, ſhews that his actions are not warranted by the Law which is boldly executed in the face of the Sun. This ſhews the interpretation put upon the words, *Againſt thee only have I ſinn'd*, by Court-flatterers, to be falſe. For if he had not ſinn'd againſt *Bathſheba* whom he corrupted, *Uriah* whom he caus'd to be kill'd, the People that he ſcandaliz'd, and the Law which he violated, he had never endeavour'd to cover his guilt by ſo vile a fraud. And as he did not thereby fly the ſight of God, but of men, 'tis evident that in that action he fear'd men more than God.

* Volenti non fit injuria.

CHAP. III.

If by the Examples of *Israel* and *Judah*, we may judg whether the Inconveniences and Miserys brought upon Nations by their Kings be tolerable or intolerable, it will be enough to consider the madness of *Saul*'s cruelty towards his Subjects, and the slaughter brought upon them by the hand of the *Philistins* on Mount *Gilboa*, where he fell with the flower of all *Israel*; the Civil Wars that happen'd in the time of *David*, and the Plague brought upon the People by his wickedness; the heavy burdens laid upon them by *Solomon*, and the Idolatry favor'd by him; the wretched folly of *Rehoboam*, and the defection of the ten Tribes caus'd by it; the Idolatry establish'd by *Jeroboam* and the Kings of *Israel*, with that of many of those of *Judah* also; the frequent Wars and unheard of Slaughters ensuing thereupon between the Tribes; the daily devastations of the Country by all sorts of Strangers; the murders of the Prophets; the abolition of God's Worship; the desolation of Towns and Provinces; the dispersion of the ten Tribes carry'd away into unknown Countrys; and in the end the abolition of both Kingdoms, with the captivity of the Tribe of *Judah*, and the utter destruction of the City. It cannot be said that these things were suffer'd under Kings, and not from or by them; for the desolation of the Citys, People and Country, is in many places of Scripture imputed to the Kings that taught *Israel* to sin, as appears by what was denounc'd against *Jeroboam*, *Jehu*, *Ahaz*, *Manasseh*, *Zedekiah*, and others. Nay, the Captivity of *Babylon* with the evils ensuing, were first announc'd to *Hezekiah* for his vanity; and *Josiah* by the like, brought a great slaughter upon himself and people. But if mischiefs fell upon the People by the frailty of these, who after *David* were the best, nothing surely less than the utmost of all Miserys could be expected from such as were set to do evil, and to make the Nation like to themselves, in which they met with too great success.

1 King. 14.
2 King. 21.
2 King. 20.

If it be pretended that God's People living under an extraordinary Dispensation can be no example to us, I desire other Historys may be examin'd; for I confess I know no Nation so great, happy and prosperous, nor any Power so well establish'd, that two or three ill Kings immediatly succeeding each other, have not bin able to destroy and bring to such a condition, that it appear'd the Nations must perish, unless the Senats, Diets, and other Assemblys of State had put a stop to the mischief, by restraining or deposing them. And tho this might be prov'd by innumerable Testimonys, I shall only say, that the Roman Empire perish'd by the vices, corruption, and baseness of their Princes: the noble Kingdom of the *Goths* in *Spain* was overthrown by the Tyranny of *Witza* and *Rodrigo*: the present state of *Spain* now languishes and threatens ruin from the same causes: *France* was brought to the last degree of misery and weakness by the degenerate races of *Pharamond* and *Charles*; to which may be added those of our own Country, which are so well known that I need not mention them.

SECT.

SECT. VI.

'Tis not good for such Nations as will have Kings, to suffer them to be glorious, powerful, or abounding in Riches.

OUR Author having hitherto spoken of all Nations, as born under a necessity of being subject to Absolute Monarchy, which he pretends to have bin set up by the universal and indispensible Law of God and Nature, now seems to leave to their discretion, whether they will have a King or not; but says, that those *who will have a King, are bound to allow him Royal Maintenance, by providing Revenues for the Crown; since it is for the Honor, Profit and Safety of the People, to have their King glorious, powerful, and abounding in Riches.* If there be any thing of sense in this Clause, there is nothing of truth in the foundation or principle of his whole Book. For as the right and being of a Father is natural or inherent, and no ways depending upon the will of the Child; that of a King is so also, if he be, and ought to enjoy the Rights belonging to the Father of the People: And 'tis not less ridiculous to say, *those who will have a King*, than it would be to say, *he that will have a Father*; for every one must have one whether he will or not. But if the King be a Father, as our Author from thence infers, that all Laws are from him, none can be impos'd upon him; and whatsoever the Subject enjoys is by his concessions; 'tis absurd to speak of an Obligation lying upon the people to allow him Royal maintenance, by providing Revenues, since he has all in himself, and they have nothing that is not from him, and depending upon his Will. For this reason a worthy Gentleman of the House of Commons in the year 1640. desir'd that the business of the Judges, who in the Star-Chamber had given for their Opinion concerning Shipmony, *That in cases of Necessity the King might provide it by his own Authority, and that he was Judg of that Necessity*, might be first examin'd, that they might know whether they had any thing to give, before they should speak of giving. And as 'tis certain, that if the Sentence of those perjur'd Wretches had stood, the Subjects of *England* by consequence would have bin found to have nothing to give; 'tis no less sure, that if our Author's principle concerning the Paternal and Absolute Power of Kings be true, it will by a more compendious way appear, that it is not left to the choice of any Nation, whether they will have a King or not; for they must have him, and can have nothing to allow him, but must receive all from him.

But if those only who *will have a King*, are bound to have one, and to allow this *Royal maintenance*, such as will not have a King, are by one and the same act deliver'd from the necessity of having one, and from providing Maintenance for him: which utterly overthrows the magnificent Fabrick of Paternal Monarchy; and the Kings who were lately represented by our Author, plac'd on the Throne by God and Nature, and endow'd with an absolute Power over all, appear to be purely the Creatures of the People, and to have nothing but what is receiv'd from them.

From

CHAP. III. From hence it may be rationally inſer'd, that * he who makes a thing to be, makes it to be only what he pleaſes. This muſt hold in relation to Kings as well as other Magiſtrats; and as they who made Conſuls, Dictators, and Military Tribuns, gave them only ſuch Power, and for ſuch a time as beſt pleas'd themſelves, 'tis impoſſible they ſhould not have the ſame right in relation to Kings, in making them what they pleaſe, as well as not to make them unleſs they pleaſe; except there be a Charm belonging to the Name, or the Letters that compoſe it; which cannot belong to all Nations, for they are different in every one according to the ſeveral Languages.

But, ſays our Author, 'tis *for the Honor, Profit, and Safety of the People that the King ſhould be glorious, powerful, and abounding in Riches.* There is therefore no obligation upon them, and they are to judg whether it be ſo or not. The Scripture ſays plainly the contrary: *He ſhall not multiply Silver and Gold, Wives and Horſes; he ſhall not lift up his Heart above his Brethren.* He ſhall not therefore be glorious, powerful, or abounding in Riches. Reaſon and Experience teach us the ſame thing: If thoſe Nations that have bin proud, luxurious and vicious, have deſir'd by Pomp and Riches to foment the Vices of their Princes, thereby to cheriſh their own; ſuch as have excel'd in Vertue and good Diſciplin have abhor'd it, and except the immediate exerciſe of their Office, have kept their ſupreme Magiſtrats to a manner of living little different from that of private men: and it had bin impoſſible to maintain that frugality, in which the integrity of their manners did chiefly conſiſt, if they had ſet up an Example directly contrary to it, in him who was to be an Example to others; or to provide for their own ſafety, if they had overthrown that integrity of manners by which it could only be obtain'd and preſerv'd. There is a neceſſity incumbent upon every Nation that lives in the like Principle, to put a ſtop to the entrance of thoſe Vices that ariſe from the ſuperfluity of Riches, by keeping their Kings in that honeſt Poverty, which is the Mother and Nurſe of Modeſty, Sobriety, and all manner of Vertue: And no man can deny this to be well done, unleſs he will affirm that Pride, Luxury and Vice is more profitable to a Nation than the Vertues that are upheld by frugality.

There is another reaſon of no leſs importance to thoſe Nations, who tho they think fit to have Kings, yet deſire to preſerve their Liberty, which obliges them to ſet limits to the Glory, Power and Riches of their Kings; and that is, That they can no otherwiſe be kept within the Rules of the Law. Men are naturally propenſe to corruption; and if he whoſe Will and Intereſt it is to corrupt them, be furniſh'd with the means, he will never fail to do it. Power, Honors, Riches, and the Pleaſures that attend them, are the baits by which men are drawn to preſer a perſonal Intereſt before the publick Good; and the number of thoſe who covet them is ſo great, that he who abounds in them will be able to gain ſo many to his ſervice as ſhall be ſufficient to ſubdue the reſt. 'Tis hard to find a Tyranny in the world that has not bin introduc'd this way: for no man by his own ſtrength could ever ſubdue a multitude; none could ever bring many to be ſubſervient to his ill deſigns, but by the rewards they receiv'd or hop'd. By this means *Ceſar* accompliſh'd his work, and overthrew the Liberty of his Country, and with it all that was then good

* Qui dat eſſe, dat modum eſſe.

in

in the world. They who were corrupted in their minds, deſir'd to put all the Power and Riches into his hands, that he might diſtribute them to ſuch as ſerv'd him. And he who was nothing leſs than covetous in his own nature, deſir'd Riches, that he might gain Followers; and by the plunder of *Gaul* he corrupted thoſe that betray'd *Rome* to him. And tho I do not delight to ſpeak of the Affairs of our own time, I deſire thoſe who know the preſent State of *France* to tell me, whether it were poſſible for the King to keep that Nation under ſervitude, if a vaſt Revenue did not enable him to gain ſo many to his particular ſervice as are ſufficient to keep the reſt in ſubjection: and if this be not enough, let them conſider whether all the dangers that now threaten us at home, do not proceed from the madneſs of thoſe who gave ſuch a Revenue, as is utterly unproportionable to the Riches of the Nation, unſutable to the modeſt behaviour expected from our Kings, and which in time will render Parliaments unneceſſary to them. SECT. 6.

On the other hand, the poverty and ſimplicity of the *Spartan* Kings was no leſs ſafe and profitable to the People than truly glorious to them. *Ageſilaus* deny'd that *Artaxerxes* was greater than he, unleſs he were more temperate or more valiant; and he made good his words ſo well, that without any other aſſiſtance than what his Wiſdom and Valor afforded, he ſtruck ſuch a terror into that great, rich, powerful and abſolute Monarch, that he did not think himſelf ſafe in *Babylon* or *Ecbatane*, till the poor *Spartan* was, by a Captain of as great valor, and greater poverty, oblig'd to return from *Aſia* to the defence of his own Country. This was not peculiar to the ſevere *Laconic* Diſciplin. When the *Roman* Kings were expel'd, a few Carts were prepar'd to tranſport their goods: and their Lands, which were conſecrated to *Mars*, and now go under the name of *Campus Martius*, hardly contain ten Acres of ground. Nay the Kings of *Iſrael*, who led ſuch vaſt Armys into the field (that is, were follow'd by all the people who were able to bear Arms) ſeem to have poſſeſt little. *Ahab*, one of the moſt powerful, was ſo fond of *Naboth*'s Vineyard (which being the Inheritance of his Fathers, according to their equal diviſion of Lands, could not be above two Acres) that he grew ſick when it was refus'd.

But if an allowance is to be made to every King, it muſt be either according to a univerſal Rule or Standard, or muſt depend upon the Judgment of Nations. If the firſt, they who have it, may do well to produce it; if the other, every Nation proceeding according to the meaſure of their own diſcretion, is free from blame.

It may alſo be worth obſervation, whether the Revenue given to a King be in ſuch manner committed to his care, that he is oblig'd to employ it for the publick Service without the power of Alienation; or whether it be granted as a Propriety, to be ſpent as he thinks fit. When ſome of the antient Jews and Chriſtians ſcrupled the paiment of Tribute to the Emperors, the reaſons alledg'd to perſuade them to a compliance, ſeem to be grounded upon a ſuppoſition of the firſt: for, ſaid they, the defence of the State lies upon them, which cannot be perform'd without Armys and Gariſons; theſe cannot be maintain'd without pay, nor mony rais'd to pay them without Tributes and Cuſtoms. This carrys a face of reaſon with it, eſpecially in thoſe Countrys which are perpetually or frequently ſubject to Invaſions; but this will not content our Author. He ſpeaks of employing the revenue in keeping the Kings Houſe, and looks upon it as a propriety to be ſpent as he thinks convenient: which is no leſs

than

CHAP. III. than to caſt it into a Pit, of which no man ever knew the bottom. That which is given one day, is ſquander'd away the next: The people are always oppreſt with Impoſitions, to foment the Vices of the Court: Theſe daily increaſing, they grow inſatiable, and the miſerable Nations are compel'd to hard Labor, in order to ſatiate thoſe Luſts that tend to their own ruin.

It may be conſider'd that the vertuous * Pagans, by the light of Nature, diſcover'd the truth of this. Poverty grew odious in *Rome*, when great men by deſiring Riches put a value upon them, and introduc'd that pomp and luxury which could not be born by men of ſmall Fortunes. † From thence all furys and miſchiefs ſeem'd to break looſe: The baſe, ſlaviſh, and ſo often ſubdu'd *Aſia*, by the baſeſt of men reveng'd the defeats they had receiv'd from the braveſt; and by infuſing into them a delight in pomp and luxury, in a ſhort time render'd the ſtrongeſt and braveſt of Nations the weakeſt and baſeſt. I wiſh our own experience did not too plainly manifeſt, that theſe Evils were never more prevalent than in our days, when the luxury, majeſtick pomp, and abſolute power of a neighbouring King muſt be ſupported by an abundance of Riches torn out of the bowels of his Subjects, which renders them in the beſt Country of the World, and at a time when the Crown moſt flouriſhes, the pooreſt and moſt miſerable of all the Nations under the Sun. We too well know who are moſt apt to learn from them, and by what means and ſteps they endeavour to lead us into the like miſery. But the Bird is ſafe when the Snare is diſcover'd; and if we are not abandon'd by God to deſtruction, we ſhall never be brought to conſent to the ſettling of that Pomp, which is againſt the practice of all vertuous people, and has brought all the Nations that have bin taken with it into the ruin that is intended for us.

SECT. VII.

When the Iſraelites *ask'd for ſuch a King as the Nations about them had, they ask'd for a Tyrant, tho they did not call him ſo.*

NOW *that* Saul *was no Tyrant*, ſays our Author, *note, that the people ask'd a King as all Nations had: God anſwers, and bids* Samuel *to hear the voice of the People in all things which they ſpake, and appoint them a King. They did not ask a Tyrant; and to give them a Tyrant when they ask'd a King, had not bin to hear their voice in all things, but rather when they ask'd an Egg to have given them a Scorpion; unleſs we will ſay that all Nations had Tyrants.* But before he drew ſuch a Concluſion, he ſhould have obſerv'd, that God did not give them a Scorpion when they ask'd an Egg, but told them that was a Scorpion which they call'd an Egg: They would have a King to judg them, to go out before them, and to fight their Battels; but God in effect told them, he would overthrow all Juſtice,

* ——Sævior armis
Luxuria incubuit, victumq; ulciſcitur orbem. *Lucan.*

† Nullum crimen abeſt, facinuſq; libidinis, ex quo
Paupertas Romana perit. *Juvenal.*

and

and turn the Power that was given him, to the ruin of them and their Po- SECT. 7.
ſterity. But ſince they would have it ſo, he commanded *Samuel* to hear-
ken to their Voice, and for the puniſhment of their ſin and folly to give
them ſuch a King as they ask'd, that is, one who would turn to his own
profit and their miſery, the Power with which he ſhould be entruſted;
and this truly denominates a Tyrant. *Ariſtotle* makes no other diſtinction
between a King and a Tyrant, than that *the King governs for the good of*
the People, the Tyrant for his own pleaſure or profit: and they who ask'd
ſuch a one, ask'd a Tyrant, tho they call'd him a King. This is all could
be done in their Language: for as they who are skill'd in the Oriental
Tongues aſſure me, there is no name for a Tyrant in any of them, or any
other way of expreſſing the thing than by circumlocution, and adding
proud, inſolent, luſtful, cruel, violent, or the like Epithets, to the word
Lord, or King. They did in effect ask a Tyrant: They would not have
ſuch a King as God had ordain'd, but ſuch a one as the Nations had.
Not that all Nations had Tyrants; but thoſe who were round about them,
of whom they had knowledg, and which in their manner of ſpeaking
went under the name of all, were bleſt with ſuch Maſters. This way
of expreſſion was us'd by *Lot*'s Daughters, who ſaid, There was not a
man in all the earth to come in to them; becauſe there was none in the
neighborhood with whom it was thought fit they ſhould accompany.
Now that the Eaſtern Nations were then, and are ſtill under the Govern-
ment of thoſe which all free People call Tyrants, is evident to all men.
God therefore in giving them a Tyrant, or rather a Government that
would turn into Tyranny, gave them what they ask'd under another
name; and without any blemiſh to the Mercy promis'd to their Fathers,
ſuffer'd them to bear the penalty of their wickedneſs and folly in rejecting
him that he ſhould not reign over them.

But tho the name of Tyrant was unknown to them, yet in *Greece*,
from whence the word comes, it ſignify'd no more than one who go-
vern'd according to his own will, diſtinguiſh'd from Kings that govern'd
by Law; and was not taken in an ill ſenſe, till thoſe who had bin ad-
vanc'd for their Juſtice, Wiſdom and Valor, or their Deſcendents, were
found to depart from the ends of their Inſtitution, and to turn that Power
to the oppreſſion of the people, which had bin given for their protection.
But by theſe means it grew odious, and that kind of Government came to
be thought only tolerable by the baſeſt of men; and thoſe who deſtroy'd
it, were in all places eſteem'd to be the beſt.

If Monarchy had bin univerſally evil, God had not in the 17*th* of *Deu-*
teronomy given leave to the *Iſraelites* to ſet up a King; and if that kind
of King had bin ask'd, he had not bin diſpleas'd: and they could not
have bin ſaid to reject God, if they had not ask'd that which was evil;
for nothing that is good is contrary, or inconſiſtent with a peoples obedi-
ence to him. The Monarchy they ask'd was diſpleaſing to God, it was
therefore evil. But a Tyrant is no more than an evil or corrupted Mo-
narch: The King therefore that they demanded was a Tyrant: God in
granting one who would prove a Tyrant, gave them what they ask'd;
and that they might know what they did, and what he would be, he
told 'em they rejected him, and ſhould cry by reaſon of the King they
deſir'd.

This denotes him to be a Tyrant: for as the Government of a King
ought to be gentle and eaſy, tending to the good of the people, reſembling
the tender care of a Father to his Family; if he who is ſet up to be a

CHAP. III. King, and to be like to that Father, dos lay a heavy Yoke upon the people, and uſe them as Slaves and not as Children, he muſt renounce all reſemblance of a Father, and be accounted an Enemy.

But, ſays our Author, *whereas the peoples crying argues ſome tyrannical oppreſſion, we may remember that the peoples Crys are not always an Argument of their living under a Tyrant. No man will ſay* Solomon *was a Tyrant, yet all the Congregation complain'd that* Solomon *made their Yoke grievous.* 'Tis ſtrange, that when Children, nay when Whelps cry, it ſhould be accounted a mark that they are troubled, and that the Cry of the whole People ſhould be none: Or that the Government which is erected for their eaſe, ſhould not be eſteem'd tyrannical if it prove grievous to thoſe it ſhould relieve. But as I know no example of a People that did generally complain without cauſe, our Adverſarys muſt alledg ſome other than that of *Solomon*, before I believe it of any. We are to ſpeak reverently of him: He was excellent in Wiſdom; he built the Temple, and God appear'd twice to him: But it muſt be confeſt, that during a great part of his life he acted directly contrary to the Law given by God to Kings, and that his ways were evil and oppreſſive to the people, if thoſe of God were good. Kings were forbidden to multiply Horſes, Wives, Silver and Gold: But he brought together more Silver and Gold, and provided more Horſes, Wives and Concubines than any man is known to have had: And tho he did not actually return to *Egypt*, yet he introduc'd their abominable Idolatry, and ſo far rais'd his heart above his Brethren, that he made them ſubſervient to his Pomp and Glory. The People might probably be pleas'd with a great part of this; but when the Yoke became grievous, and his fooliſh Son would not render it more eaſy, they threw it off; and the thing being from the Lord, it was good, unleſs he be evil.

But as juſt Governments are eſtabliſh'd for the good of the governed, and the *Iſraelites* deſir'd a King, that it might be well with them, not with him who was not yet known to them; that which exalts one to the prejudice of thoſe that made him, muſt always be evil, and the People that ſuffers the prejudice muſt needs know it better than any other. He that denies this, may think the ſtate of *France* might have bin beſt known from *Bulion* the late Treaſurer, who finding *Lewis* the Thirteenth to be troubled at the peoples miſery, told him they were too happy, ſince they were not reduc'd to eat graſs. But if words are to be underſtood as they are ordinarily us'd, and we have no other than that of *Tyranny* to expreſs a Monarchy that is either evil in the inſtitution, or fallen into corruption, we may juſtly call that *Tyranny* which the Scripture calls a *grievous Yoke*, and which neither the old nor the new Counſellors of *Rehoboam* could deny to be ſo; for tho the firſt advis'd him to promiſe amendment, and the others to do worſe, yet all agreed that what the people ſaid was true.

This Yoke is always odious to ſuch as are not by natural ſtupidity and baſeneſs fitted for it; but thoſe who are ſo, never complain. An Aſs will bear a multitude of blows patiently, but the leaſt of them drives a Lion into rage. He that ſaid, the rod is made for the back of fools, confeſt that oppreſſion will make a wiſe man mad. And the moſt unnatural of all oppreſſions is to uſe Lions like Aſſes, and to lay that Yoke upon a generous Nation, which only the baſeſt can deſerve; and for want of a better word we call this Tyranny.

Our Author is not contented to vindicate *Solomon* only, but extends his Indulgence to *Saul*. His cuſtom is to patronize all that is deteſtable, and no better teſtimony could be given of it. *It is true*, ſays he, *Saul loſt his Kingdom*,

Kingdom, but not for being too cruel or tyrannical to his Subjects, but for being too merciful to his Enemys. But he alledges no other reaſon, than that the ſlaughter of the Prieſts is not blam'd; not obſerving that the Writers of the Scripture in relating thoſe things that are known to be abominable by the Light of Nature, frequently ſay no more of them: And if this be not ſo, *Lot*'s drunkenneſs and inceſt, *Reuben*'s pollution of his Father's bed, *Abimelech*'s ſlaughter of his ſeventy Brothers, and many of the moſt wicked Acts that ever were committed, may paſs for laudable and innocent. But if *Saul* were not to be blam'd for killing the Prieſts, why was *David* blam'd for the death of * *Uriah?* Why were the Dogs to lick the blood of *Ahab* and *Jezebel*, if they did nothing more than Kings might do without blame? Now if the ſlaughter of one man was ſo ſeverely aveng'd upon the Authors and their Familys, none but ſuch as *Filmer* can think that of ſo many innocent men, with their Wives and Children, could eſcape unreprov'd or unpuniſh'd. But the whole ſeries of the Hiſtory of *Saul* ſhewing evidently that his Life and Reign were full of the moſt violent cruelty and madneſs, we are to ſeek no other reaſon for the ruin threaten'd and brought upon him and his Family. And as thoſe Princes who are moſt barbarouſly ſavage againſt their own people, are uſually moſt gentle to the Enemys of their Country, he could not give a more certain teſtimony of his hatred to thoſe he ought to have protected, than by preſerving thoſe Nations who were their moſt irreconcilable Enemies. This is prov'd by reaſon as well as by experience; for every man knows he cannot bear the hatred of all mankind: Such as know they have Enemys abroad, endeavour to get Friends at home: Thoſe who command powerful Nations, and are belov'd by them, fear not to offend Strangers. But if they have render'd their own people Enemys to them, they cannot hope for help in a time of diſtreſs, nor ſo much as a place of retreat or refuge, unleſs from ſtrangers, nor from them unleſs they deſerve it, by favoring them to the prejudice of their own Country. As no man can ſerve two Maſters, no man can purſue two contrary Intereſts. *Moſes*, *Joſhua*, *Gideon* and *Samuel*, were ſevere to the *Amorites*, *Midianites* and *Cananites*, but mild and gentle to the *Hebrews*. *Saul*, who was cruel to the *Hebrews*, ſpar'd the *Amalekites*, whoſe preſervation was their deſtruction: and whilſt he deſtroy'd thoſe he ſhould have ſav'd, and ſav'd thoſe that by a general and particular command of God he ſhould have deſtroy'd, he loſt his ill govern'd Kingdom, and left an example to poſterity of the end that may be expected from pride, folly and tyranny. SECT. 7.

The matter would not be much alter'd, if I ſhould confeſs, that in the time of *Saul* all Nations were govern'd by Tyrants (tho it is not true, for *Greece* did then flouriſh in Liberty, and we have reaſon to believe that other Nations did ſo alſo) for tho they might not think of a good Government at the firſt, nothing can oblige men to continue under one that is bad, when they diſcover the evils of it, and know how to mend it. They who truſted men that appear'd to have great Vertues, with ſuch a power as might eaſily be turn'd into Tyranny, might juſtly retract, limit or aboliſh it, when they found it to be abus'd. And tho no condition had bin reſerv'd, the publick Good, which is the end of all † Government,

* *Thou haſt killed* Uriah *with the Sword of the Children of* Ammon: *Now therefore the Sword ſhall never depart from thy Houſe*, 2 Sam. 12.

† Salus populi ſuprema Lex.

CHAP. III. had bin ſufficient to abrogate all that ſhould tend to the contrary. As the malice of Men and their Inventions to do miſchief increaſe daily, all would ſoon be brought under the power of the worſt, if care were not taken, and opportunitys embrac'd to find new ways of preventing it. He that ſhould make War at this day as the beſt Commanders did two hundred years paſt, would be beaten by the meaneſt Soldier. The Places then accounted impregnable are now ſlighted as indefenſible; and if the Arts of defending were not improv'd as well as thoſe of aſſaulting, none would be able to hold out a day. Men were ſent into the World rude and ignorant; and if they might not have us'd their natural Faculty's to find out that which is good for themſelves, all muſt have bin condemn'd to continue in the ignorance of our firſt Fathers, and to make no uſe of their underſtanding to the ends for which it was given.

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CHAP. III. minion over them, but can have no influence upon us. The firſt of the *Ceſars* had not bin ſet up by them: The ſeries of them had not bin continu'd by their conſent: They had not interrupted the ſucceſſion by placing or diſplacing ſuch as they pleas'd: They had not brought in Strangers or Baſtards, nor prefer'd the remoteſt in blood before the neareſt: They had no part in making the Laws by which they were govern'd, nor had the *Ceſars* ſworn to them: They had no *Great Charter*, acknowledging their Libertys to be innate or inherent in them, confirm'd by immemorial Cuſtom, and ſtrengthen'd by thirty acts of their own general Aſſemblys, with the aſſent of the *Romans:* The *Ceſar* who then govern'd came not to the power by their conſent: The queſtion, *Will ye have this man to reign?* had never bin ask'd; but he being impos'd upon them, they were to ſubmit to the Laws by which he govern'd their Maſters. This can be nothing to us, whoſe caſe is in every reſpect moſt unlike to theirs. We have no Dictatorian Power over us; and neither we nor our Fathers have render'd or ow'd obedience to any human Laws but our own, nor to any other Magiſtracy than what we have eſtabliſh'd. We have a King who reigns by Law. His power is from the * *Law that makes him King:* and we can know only from thence what he is to command, and what we are oblig'd to obey. We know the power of the *Ceſars* was uſurp'd, maintain'd and exercis'd with the moſt deteſtable violence, injuſtice and cruelty. But tho it had bin eſtabliſh'd by the conſent of the *Romans*, from an opinion that it was good for them in that ſtate of affairs, it were nothing to us: and we could be no more oblig'd to follow their example in that, than to be govern'd by Conſuls, Tribuns, and *Decemviri*, or to conſtitute ſuch a Government as they ſet up when they expel'd their Kings. Their Authority was as good at one time as at the other; or if a difference ought to be made, the preference is to be given to what they did when their Manners were moſt pure, the People moſt free, and when Vertue was moſt flouriſhing among them. But if we are not oblig'd to ſet up ſuch a Magiſtracy as they had, 'tis ridiculous to think that ſuch an obedience is due to one who is not in being as they paid to him that was. And if I ſhould confeſs that *Ceſar* holding the Senat and People of *Rome* under the power of the Sword, impos'd what tribute he pleas'd upon the Provinces; and that the *Jews*, who had no part in the Government, were oblig'd to ſubmit to his will, our liberty of paying nothing, except what the Parliament appoints, and yielding obedience to no Laws but ſuch as are made to be ſo by their Authority, or by our own immemorial Cuſtoms, could not be thereby infring'd. But we may juſtly affirm, that the Tribute impos'd was not, as our Author infers, *all their Coin*, nor a conſiderable part of it, nor more than what was underſtood to go for the defraying of the publick Charges. Chriſt by asking whoſe Image and Superſcription was ſtampt upon their Mony, and thereupon commanding them to give to *Ceſar* that which was *Ceſar*'s, did not imply that all was his; but that *Ceſar*'s Mony being current amongſt them, it was a continual and evident teſtimony, that they acknowledg'd themſelves to be under his juriſdiction, and therefore could not refuſe to pay the Tribute laid upon them by the ſame Authority, as other Nations did.

It may alſo be obſerv'd, that Chriſt did not ſo much ſay this to determin the queſtions that might ariſe concerning *Ceſar*'s Power; for he plain-

* Lex facit ut ſit Rex. *Bracton.*

ly

ly ſays, that was not his work; but to put the *Phariſees* to ſilence who tempted him. According to the opinion of the *Jews*, that the Meſſias would reſtore the Kingdom of *Iſrael*, they thought his firſt work would be to throw off the *Roman* Yoke; and not believing him to be the man, they would have brought him to avow the thing, that they might deſtroy him. But as that was not his buſineſs, and that his time was not yet come, it was not neceſſary to give them any other anſwer, than ſuch as might diſappoint their purpoſe. This ſhews that, without detracting from the honor due to *Auſtin*, *Ambroſe*, or *Tertullian*, I may juſtly ſay, that the deciſion of ſuch queſtions as ariſe concerning our Government muſt be decided by our Laws, and not by their Writings. They were excellent Men; but living in another time, under a very different Government, and applying themſelves to other matters, they had no knowledg at all of thoſe that concern us. They knew what Government they were under, and thereupon judg'd what a broken and diſpers'd People ow'd to that which had given Law to the beſt part of the World before they were in being, under which they had bin educated, and which after a moſt cruel perſecution was become propitious to them. They knew that the Word of the Emperor was a Law to the Senat and People, who were under the power of that man that could get the beſt Army; but perhaps had never heard of ſuch mix'd Governments as ours, tho about that time they began to appear in the world. And it might be as reaſonably concluded, that there ought to be no rule in the Succeſſion or Election of Princes, becauſe the *Roman* Emperors were ſet up by the violence of the Soldiers, and for the moſt part by the ſlaughter of him who was in poſſeſſion of the Power, as that all other Princes muſt be abſolute when they have it, and do what they pleaſe, till another more ſtrong and more happy may by the like means wreſt the ſame Power from them. SECT. 8.

I am much miſtaken if this be not true; but without prejudice to our Cauſe, we may take that which they ſay, according to their true meaning, in the utmoſt extent. And to begin with *Tertullian*: 'Tis good to conſider the ſubject of his Diſcourſe, and to whom he wrote. The Treatiſe cited by our Author is the *Apologetick*, and tends to perſuade the Pagans, that Civil Magiſtrats might not intermeddle with Religion; and that the Laws made by them touching thoſe matters, were of no value, as relating to things of which they had no cognizance. * *'Tis not*, ſays he, *length of time, nor the dignity of the Legiſlators, but equity only that can commend Laws; and when any are found to be unjuſt, they are deſervedly condemn'd.* By which words he deny'd that the Magiſtratical Power which the *Romans* acknowledg'd in *Ceſar*, had any thing to do in ſpiritual things. And little advantage can be taken by Chriſtian Princes from what he ſays concerning the *Roman* Emperors; for he expreſly declares, † *That the* Ceſars *would have believ'd in Chriſt, if they had either not bin neceſſary to the ſecular Government, or that Chriſtians might have bin* Ceſars. This ſeems to have proceeded from an opinion receiv'd by Chriſtians in the firſt Ages, that the uſe of the Civil as well as the Military Sword was

* Leges non annorum numerus, nec conditorum dignitas, ſed ſola æquitas commendat; atq; ideo ſi iniquæ cognoſcuntur, merito damnantur. *Tertul. Ap.*

† Sed & Cæſares ſuper Chriſto credidiſſent, ſi aut Cæſares non eſſent ſæculo neceſſarii, aut Chriſtiani potuiſſent eſſe Cæſares. *Ibid.*

equally

CHAP. III. equally accurs'd: That *Chriſtians were to be* || *Sons of peace, Enemys to no man; and that Chriſt by commanding* Peter *to put up his Sword, did for ever diſarm all Chriſtians.* He proceeds to ſay, † *We cannot fight to defend our Goods, having in our Baptiſm renounc'd the World, and all that is in it; nor to gain Honors, accounting nothing more foreign to us than publick Affairs, and acknowledging no other Commonwealth than that of the whole World; nor to ſave our lives, becauſe we account it a happineſs to be kill'd.* He diſſuades the *Pagans* from executing Chriſtians, rather from charity to them in keeping them from the crime of ſlaughtering the Innocent, than that they were unwilling to ſuffer: and gives no other reaſons of their Prayers for the Emperors, than that they were commanded to love their Enemys, and to pray for thoſe who perſecuted them, except ſuch as he drew from a miſtake, that the World was ſhortly to finiſh with the diſſolution of the Empire. All his Works, as well thoſe that were written before he fell into Montaniſm, as thoſe publiſh'd afterwards, are full of the like Opinions: and if *Filmer* acknowledges them to be true, he muſt confeſs, That Princes are not Fathers, but * Enemys; and that not only they, but all thoſe who render themſelves Miniſters of the Powers they execute, in taking upon them the Sword that Chriſt had curs'd, do renounce him; and we may conſider how to proceed with ſuch as do ſo. If our Author will not acknowledg this, then no man was ever guilty of a more vile prevarication than he, who alledges thoſe words in favor of his Cauſe, which have their only ſtrength in Opinions that he thinks falſe, and in the Authority of a man whom in that very thing he condemns; and muſt do ſo, or overthrow all that he endeavours to ſupport. But *Tertullian*'s Opinions concerning theſe matters have no relation to our preſent Queſtion. The deſign of his Apology, and the Treatiſe to *Scapula* almoſt upon the ſame ſubject, was to ſhow, that the Civil Magiſtracy which he comprehends under the name of *Ceſar*, had nothing to do with matters of Religion; and that, as no man could be a Chriſtian who would undertake the work of a Magiſtrate, they who were jealous the publick Offices might be taken out of their hands, had nothing to fear from Chriſtians who reſolv'd not to meddle with them. Whereas our queſtion is only, Whether that Magiſtratical Power, which by Law or Uſurpation was then in *Ceſar*, muſt neceſſarily in all times, and in all places, be in one man, or may be divided and balanc'd according to the Laws of every Country, concerning which he ſays nothing: Or whether we, who do not renounce the uſe of the Civil or Military Sword, who have a part in the Government, and think it our duty to apply our ſelves to publick Cares, ſhould lay them aſide becauſe the antient Chriſtians every hour expecting death, did not trouble themſelves with them.

If *Ambroſe* after he was a Biſhop, employ'd the ferocity of a Soldier, which he ſtill retain'd, rather in advancing the power of the Clergy, than the good of Mankind by reſtraining the rage of Tyrants, it can be no prejudice to our Cauſe, of which he had no cogniſance. He ſpoke of the violent and deſpotical Government, to which he had bin a Miniſter

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|| Filii pacis, nullius hoſtes; & Chriſtus exarmando Petrum, omnem Chriſtianum militem in æternum diſcinxit. *Tertul. ibid.*

† Nobis omnis gloriæ & dignitatis ardore frigentibus, &c. Nec alia res eſt nobis magis aliena quam publica: Unam nobis Rempublicam Mundum agnoſcimus. *Ibid.*

* Qui enim magis inimici Chriſtianorum, quam de quorum Majeſtate convenimur in crimen. *Ibid.*

before

before his Baptiſm, and ſeems to have had no knowledg of the *Gothick* Polity, that within a few years grew famous by the overthrow of the *Roman* Tyranny, and delivering the world from the Yoke which it could no longer bear. And if *Auſtin* might ſay, That *the Emperor is ſubject to no Laws, becauſe he has a Power of making Laws*; I may juſtly ſay, that our Kings are ſubject to Laws, becauſe they can make no Law, and have no Power but what is given by the Laws. If this be not the caſe, I deſire to know who made the Laws, to which they and their Predeceſſors have ſworn; and whether they can according to their own will abrogate thoſe antient Laws, by which they are made to be what they are, and by which we enjoy what we have; or whether they can make new Laws by their own Power? If no man but our Author have impudence enough to aſſert any ſuch thing; and if all the Kings we ever had, except *Richard* the ſecond, did renounce it, we may conclude that *Auſtin*'s words have no relation to our diſpute; and that 'twere to no purpoſe to examin, whether the Fathers mention any reſervation of Power to the Laws of the Land, or to the People; it being as lawful for all Nations, if they think fit, to frame Governments different from thoſe that were then in being, as to build Baſtions, Halfmoons, Hornworks, Ravelins or Counterſcarps, or to make uſe of Muskets, Cannon, Mortars, Carabines or Piſtols, which were unknown to them. SECT. 8.

What *Solomon* ſays of the *Hebrew* Kings, dos as little concern us. We have already prov'd their Power not to have bin abſolute, tho greater than that which the Law allows to ours. It might upon occaſion be a prudent advice to private perſons living under ſuch Governments as were uſual in the Eaſtern Countrys, *to keep the King's Commandments, and not to ſay, What doſt thou? becauſe where the Word of a King is, there is Power, and all that he pleaſeth he will do.* But all theſe words are not his; and thoſe that are, muſt not be taken in a general ſenſe; for tho his Son was a King, yet in his words there was no power: He could not do what he pleas'd, nor hinder others from doing what they pleas'd: He would have added weight to the Yoke that lay upon the necks of the *Iſraelites*, but he could not; and we do not find him to have bin maſter of much more than his own Tongue, to ſpeak as many fooliſh things as he pleas'd. In other things, whether he had to deal with his own people, or with ſtrangers, he was weak and impotent; and the wretches who flatter'd him in his follys, could be of no help to him. The like has befallen many others: Thoſe who are wiſe, vertuous, valiant, juſt, and lovers of their People, have and ought to have Power; but ſuch as are leud, vicious, fooliſh, and haters of their People, ought to have none, and are often depriv'd of all. This was well known to *Solomon*, who ſays, That *a wiſe Child is better than an old and fooliſh King that will not be advis'd.* When *Nabuchodonoſor* ſet himſelf in the place of God, his Kingdom was taken from him, and he was driven from the ſociety of men to herd with beaſts. There was Power for a time in the word of *Nero*: he murder'd many excellent men; but he was call'd to account, and the World abandon'd the Monſter it had too long endur'd. He found none to defend him, nor any better help, when he deſir'd to die, than the hand of a Slave. Beſides, ſome Kings by their Inſtitution have little Power; ſome have bin depriv'd of what they had, for abuſing, or rendring themſelves unworthy of it; and Hiſtorys afford us innumerable examples of both ſorts.

CHAP. III. But tho I ſhould confeſs that there is always Power in the word of a King, it would be nothing to us who diſpute concerning Right, and have no regard to that Power which is void of it. A Thief or a Pyrat may have Power: but that avails him not, when, as often befel the *Ceſars*, he meets with one who has more; and is always unſafe, ſince having no effect upon the Conſciences of men, every one may deſtroy him that can. And I leave it to Kings to conſider how much they ſtand oblig'd to thoſe, who placing their Rights upon the ſame foot, expoſe their Perſons to the ſame dangers.

But if Kings deſire that in their Word there ſhould be power, let them take care that it be always accompany'd with Truth and Juſtice. Let them ſeek the good of their People, and the hands of all good men will be with them. Let them not exalt themſelves inſolently, and every one will deſire to exalt them. Let them acknowledg themſelves to be the Servants of the Publick, and all men will be theirs. Let ſuch as are moſt addicted to them, talk no more of *Ceſars*, nor the Tributes due to them. We have nothing to do with the name of *Ceſar*. They who at this day live under it, reject the Prerogatives antiently uſurp'd by thoſe who had it, and are govern'd by no other Laws than their own. We know no Law to which we owe obedience, but that of God, and our ſelves. *Aſiatick* Slaves uſually pay ſuch Tributes as are impos'd upon them; and whilſt braver Nations lay under the *Roman* Tyranny, they were forc'd to ſubmit to the ſame burdens. But even thoſe Tributes were paid for maintaining Armys, Fleets and Gariſons, without which the poor and abject life they led could not have bin preſerv'd. We owe none but what we freely give. None is or can be impos'd upon us, unleſs by our ſelves. We meaſure our Grants according to our own Will, or the preſent occaſions, for our own ſafety. Our Anceſtors were born free, and, as the beſt proviſion they could make for us, they left us that Liberty intire, with the beſt Laws they could deviſe to defend it. 'Tis no way impair'd by the Opinions of the Fathers. The words of *Solomon* do rather confirm it. The happineſs of thoſe who enjoy the like, and the ſhameful miſery under which they lie, who have ſuffer'd themſelves to be forc'd or cheated out of it, may perſuade, and the juſtice of the Cauſe encourage us to think nothing too dear to be hazarded in the defence of it.

SECT. IX.

Our own Laws confirm to us the enjoyment of our native Rights.

IF that which our Author calls Divinity did reach the things in diſpute between us, or that the Opinions of the Fathers which he alledges, related to them, he might have ſpar'd the pains of examining our Laws: for a municipal Sanction were of little force to confirm a perpetual and univerſal Law given by God to mankind, and of no value againſt it, ſince man cannot abrogate what God has inſtituted, nor one Nation free it ſelf from a Law that is given to all. But having abus'd the Scriptures, and the Writings of the Fathers, (whoſe Opinions are to be valu'd only ſo far as they rightly interpret them) he ſeems deſirous to try whether he can as well put a falſe ſenſe upon our Law. According to his cuſtom he takes

takes pieces of paſſages from good Books, and turns them directly againſt the plain meaning of the Authors, expreſt in the whole ſcope and deſign of their Writings. To ſhow that he intends to ſpare none, he is not aſham'd to cite *Bracton*, who of all our antient Law-writers is moſt oppoſite to his Maxims. He liv'd, ſays he, in *Henry* the third's time, ſince Parliamenns were inſtituted: as if there had bin a time when *England* had wanted them; or that the eſtabliſhment of our Liberty had bin made by the *Normans*, who, if we will believe our Author, came in by force of Arms, and oppreſt us. But we have already prov'd the Eſſence of Parliaments to be as antient as our Nation, and that there was no time in which there were not ſuch Councils or Aſſemblys of the People as had the power of the whole, and made or unmade ſuch Laws as beſt pleas'd themſelves. We have indeed a *French* word from a People that came from *France*, but the Power was always in our ſelves: and the *Norman* Kings were oblig'd to ſwear they would govern according to the Laws that had bin made by thoſe Aſſemblys. It imports little whether *Bracton* liv'd before or after they came amongſt us. His words are, *Omnes ſub eo, & ipſe ſub nullo, ſed tantum ſub Deo; All are under him, and he under none but God only. If he offend, ſince no Writ can go out againſt him, their Remedy is by petitioning him to amend his Faults; which if he will not do, it is puniſhment enough for him to expect God as an avenger. Let none preſume to look into his Deeds, much leſs to oppoſe him.* Here is a mixture of Senſe and Nonſenſe, Truth and Falſhood, the words of *Bracton*, with our Author's fooliſh Inferences from them. *Bracton* ſpoke of the politick capacity of the King, when no Law had forbidden him to divide it from his natural. He gave the name of King to the ſovereign Power of the Nation, as *Jacob* call'd that of his Deſcendents The Scepter; which he ſaid ſhould not depart from *Judah* till *Shiloh* came, tho all men know that his Race did not reign the third part of that time over his own Tribe, nor full fourſcore years over the whole Nation. The ſame manner of ſpeech is us'd in all parts of the world. *Tertullian* under the name of *Ceſar* comprehended all magiſtratical Power, and imputed to him the Acts of which in his perſon he never had any knowledg. The *French* ſay, their King is always preſent, *ſur ſon lit de juſtice*, in all the Sovereign Courts of the Kingdom, which are not eaſily number'd; and that Maxim could have in it neither ſenſe nor truth, if by it they meant a Man, who can be but in one place at one time, and is always comprehended within the Dimenſions of his own Skin. Theſe things could not be unknown to *Bracton*, the like being in uſe amongſt us; and he thought it no offence ſo far to follow the dictates of Reaſon prohibited by no Law, as to make a difference between the inviſible and omnipreſent King, who never dies, and the Perſon that wears the Crown, whom no man without the guilt of Treaſon may endeavour to kill ſince there is an Act of Parliament in the caſe. I will not determin whether he ſpoke properly or no as to *England*; but if he did not, all that he ſaid being upon a falſe ſuppoſition, is nothing to our purpoſe. The ſame *Bracton* ſays, *the King dos no wrong*, in as much as he dos nothing but by Law. * *The Power of the King is the Power of the Law, a power of right not of wrong.* Again, *If* † *the King dos injuſtice, he is not King.* In another place he has theſe words;

SECT. 9.

* Poteſtas Regis eſt poteſtas Legis, poteſtas juris non injuriæ. *Bract. de Leg. Angl.*
† Qui ſi facit injuriam, non eſt Rex. *Ibid.*

CHAP. III.

* *The King therefore ought to exerciſe the Power of the Law, as becomes the Vicar and Miniſter of God upon Earth, becauſe that Power is the Power of God alone; but the Power of doing wrong is the Power of the Devil, and not of God. And the King is his Miniſter whoſe Work he dos: Whilſt he dos Juſtice, he is the Vicar of the Eternal King; but if he deflect from it to act unjuſtly, he is the Miniſter of the Devil.* He alſo ſays that the King is *ſingulis major, univerſis minor*; and that he who is *in juſtitia exequenda omnibus major, in juſtitia recipienda cuilibet ex plebe ſit æqualis.* I ſhall not ſay *Bracton* is in the right when he ſpeaks in this manner; but 'tis a ſtrange impudence in *Filmer* to cite him as a Patron of the abſolute Power of Kings, who dos ſo extremely depreſs them. But the groſſeſt of his follys is yet more pardonable than his deteſtable fraud in falſifying *Bracton*'s words, and leaving out ſuch as are not for his purpoſe, which ſhew his meaning to be directly contrary to the ſenſe put upon them. That this may appear, I ſhall ſet down the words as they are found in *Bracton: Ipſe autem Rex non debet eſſe ſub homine, ſed ſub Deo, & ſub Lege, quia Lex facit Regem. Attribuat ergo Rex Legi quod Lex attribuit ei, id eſt dominationem & poteſtatem: Non eſt enim Rex ubi dominatur voluntas & non Lex; & quod ſub Lege eſſe debeat, cum ſit Dei vicarius, evidenter apparet.* If *Bracton* therefore be a competent Judg, the King is under the Law; and he is not a King, nor God's Vicegerent unleſs he be ſo; and we all know how to proceed with thoſe who being under the Law, offend againſt it. For the Law is not made in vain. In this caſe ſomething more is to be done than petitioning; and 'tis ridiculous to ſay, that if *he will not amend, 'tis puniſhment enough for him to expect God an Avenger:* for the ſame may be ſaid of all Malefactors. God can ſufficiently puniſh Thieves and Murderers: but the future Judgment, of which perhaps they have no belief, is not ſufficient to reſtrain them from committing more Crimes, nor to deter others from following their example. God was always able to puniſh Murderers, but yet by his Law he commands man to ſhed the blood of him who ſhould ſhed man's blood; and declares that the Land cannot be purg'd of the Guilt by any other means. He had Judgments in ſtore for *Jeroboam*, *Ahab*, and thoſe that were like them; but yet he commanded, that, according to that Law, their Houſes ſhould be deſtroy'd from the earth. The dogs lick'd up the blood of *Ahab*, where they had lick'd that of *Naboth*, and eat *Jezebel* who had contriv'd his murder. *But*, ſays our Author, *we muſt not look into his deeds, much leſs oppoſe them.* Muſt not *David* look into *Saul*'s deeds, nor oppoſe them? Why did he then bring together as many men as he could to oppoſe, and make foreign Alliances againſt him, even with the *Moabites* and the accurſed *Philiſtins*? Why did *Jehu* not only deſtroy *Ahab*'s houſe, but kill the King of *Judah* and his forty Brothers, only for going to viſit his Children? Our Author may perhaps ſay, becauſe God commanded them. But if God commanded them to do ſo, he did not command them and all mankind not to do ſo; and if he did not forbid, they have nothing to reſtrain them from doing the like, unleſs they have made municipal Laws of their own to the contrary, which our Author and his Followers may produce when they can find them.

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* Exercere igitur debet Rex poteſtatem juris ſicut Dei vicarius & miniſter in terra, quia illa poteſtas ſolius Dei eſt, poteſtas autem injuriæ Diaboli eſt non Dei; & cujus horum opera fecerit Rex, ejus miniſter erit: Igitur dum facit juſtitiam, vicarius eſt regis æterni: Miniſter autem Diaboli dum declinet ad injuriam. *Ibid. l.* 3.

His

His next work is to go back again to the Tribute paid by Chriſt to *Ceſar*, and judiciouſly to infer, that all Nations muſt pay the ſame Duty to their Magiſtrats, as the *Jews* did to the *Romans* who had ſubdu'd them. *Chriſt did not*, ſays he, *ask what the Law of the Land was, nor inquire whether there was a Statute againſt it, nor whether the Tribute were given by the conſent of the People, but upon ſight of the ſuperſcription concluded*, &c. It had bin ſtrange if Chriſt had inquir'd after their Laws, Statutes or Conſent, when he knew that their Commonwealth, with all the Laws by which it had ſubſiſted, was aboliſh'd; and that *Iſrael* was become a Servant to thoſe who exercis'd a moſt violent domination over them: which being a peculiar puniſhment for their peculiar ſins, can have no influence upon Nations that are not under the ſame circumſtances. SECT. 9.

But of all that he ſays, nothing is more incomprehenſible, than what he can mean by lawful Kings to whom all is due that was due to the *Roman* Uſurpers. For lawful Kings are Kings by the Law: In being Kings by the Law they are ſuch Kings as the Law makes them, and that Law only muſt tell us what is due to them; or by a univerſal Patriarchical Right, to which no man can have a title, as is ſaid before, till he prove himſelf to be the right Heir of *Noah*. If neither of theſe are to be regarded, but that Right follows Poſſeſſion, there is no ſuch thing as a Uſurper; he who has the Power has the Right, as indeed *Filmer* ſays, and his Wiſdom as well as his Integrity is ſufficiently declar'd by the Aſſertion.

This wicked extravagancy is follow'd by an attempt of as ſingular ignorance and ſtupidity, to ſhuffle together Uſurpers and Conquerors, as if they were the ſame; whereas there have bin many Uſurpers who were not Conquerors, and Conquerors that deſerv'd not the name of Uſurpers. No wiſe man ever ſaid that *Agathocles* or *Dionyſius* conquer'd *Syracuſe*; *Tarquin*, *Galba* or *Otho*, *Rome*; *Cromwel*, *England*; or that the *Magi*, who ſeiz'd the Government of *Perſia* after the death of *Cambyſes*, conquer'd that Country. When *Moſes* and *Joſhua* had overthrown the Kingdoms of the *Amorites*, *Moabites* and *Cananites*; or when *David* ſubdu'd the *Ammonites*, *Edomites*, and others, none, as I ſuppoſe, but ſuch Divines as *Filmer*, will ſay they uſurp'd a Dominion over them. There is ſuch a thing amongſt men as juſt War, or elſe true Valor could not be a Vertue but a Crime; and inſtead of glory, the utmoſt infamy would always be the companion of Victory. There are, ſays* *Grotius*, Laws of War as well as of Peace. He who for a juſt Cauſe, and by juſt Means, carrys on a juſt War, has as clear a right to what is acquir'd as can be enjoy'd by Man; but all Uſurpation is deteſtable and abominable.

* Belli æque ac pacis jura. *De jur. bel. & pac.*

SECT.

SECT. X.

The words of St. Paul *enjoining obedience to higher Powers, favor all sorts of Governments no less than Monarchy.*

OUR Author's next quarrel is with St. *Paul, who did not*, at he says, *in enjoining subjection to the higher Powers, signify the Laws of the Land, or mean the highest Powers, as well Aristocratical and Democratical as Regal, but a Monarch that carries the Sword*, &c. But what if there be no Monarch in the place? or what if he do not carry the Sword? Had the Apostle spoken in vain, if the liberty of the *Romans* had not bin overthrown by the fraud and violence of *Cesar?* Was no obedience to be exacted whilst that people enjoy'd the benefit of their own Laws, and Vertue flourish'd under the moderate Government of a legal and just Magistracy, establish'd for the common good, by the common consent of all? Had God no Minister amongst them till Law and Justice was overthrown, the best part of the people destroy'd by the fury of a corrupt mercenary Soldiery, and the world subdu'd under the Tyranny of the worst Monsters that it had ever produc'd? Are these the ways of establishing God's Vicegerents, and will he patronize no Governors or Governments but such as these? Dos God uphold evil, and that only? If the world has bin hitherto mistaken, in giving the name of evil to that which is good, and calling that good which is evil; I desire to know what can be call'd good amongst men, if the Government of the *Romans*, till they enter'd *Greece* and *Asia*, and were corrupted by the Luxury of both, do not deserve that name? or what is to be esteem'd evil, if the establishment and exercise of the *Cesars* Power were not so? But says he, *Wilt thou not be afraid of the Power?* And was there no Power in the Governments that had no Monarchs? Were the *Carthaginians*, *Romans*, *Grecians*, *Gauls*, *Germans* and *Spaniards* without Power? Was there no Sword in that Nation and their Magistrats, who overthrew the Kingdoms of *Armenia*, *Egypt*, *Numidia*, *Macedon*, with many others, and whom none of the Monarchs were able to resist? Are the *Venetians*, *Switzers*, *Grisons* and *Hollanders* now left in the same weakness, and no obedience at all due to their Magistrats? If this be so, how comes it to pass that Justice is so well administer'd amongst them? Who is it that defends the *Hollanders* in such a manner, that the greatest Monarchs with all their Swords have had no great reason to boast of any Advantages gain'd against them? at least till we (whom they could not resist when we had no Monarch, tho we have bin disgracefully beaten by them since we had one) by making Leagues against them, and sowing divisions amongst them, instigated and assisted the greatest Power now in the world to their destruction and our own. But our Author is so accustom'd to fraud, that he never cites a passage of Scripture which he dos not abuse or vitiate; and that he may do the same in this place, he leaves out the following words, *For there is no power but of God*, that he might intitle one sort only to his protection. If therefore the People and popular Magistrats of *Athens*; the two Kings, *Ephori* and Senat of *Sparta*; the *Sanhedrins* amongst the *Hebrews*; the Consuls, Tribuns, Pretors and

Senat

Senat of *Rome*; the Magiſtrats of *Holland*, *Switzerland* and *Venice*, have or had power, we may conclude that they alſo were ordain'd by God; and that according to the precept of the Apoſtle, the ſame obedience for the ſame reaſon is due to them as to any Monarch. SECT. 10.

The Apoſtle farther explaining himſelf, and ſhewing who may be accounted a Magiſtrate, and what the duty of ſuch a one is, informs us when we ſhould fear, and on what account. *Rulers*, ſays he, *are not a terror to good works, but to the evil: Wilt thou then not be afraid of the Power? do that which is good, and thou ſhalt have praiſe of the ſame; for he is the Miniſter of God, a revenger to execute wrath upon him that doth evil.* He therefore is only the Miniſter of God, who is not a terror to good works, but to evil; who executes wrath upon thoſe that do evil, and is a praiſe to thoſe that do well. And he who dos well, ought not to be afraid of the power, for he ſhall receive praiſe. Now if our Author were alive, tho he was a man of a hard forehead, I would ask him, whether in his Conſcience he believ'd, that *Tiberius*, *Caligula*, *Claudius*, *Nero*, and the rabble of ſucceeding Monſters, were a praiſe to thoſe who did well, and a terror to thoſe who did ill; and not the contrary, a praiſe to the worſt, and a terror to the beſt men of the world? or for what reaſon * *Tacitus* could ſay, that Vertue brought men who liv'd under 'em to certain deſtruction, and recite ſo many Examples of the brave and good, who were murder'd by them for being ſo, unleſs they had endeavour'd to extinguiſh all that was good, and to † tear up Vertue by the roots? Why did he call *Domitian* an ‖ Enemy to Vertue, if he was a terror only to thoſe that did evil? If the world has hitherto bin miſled in theſe things, and given the name of Vertue to Vice, and of Vice to Vertue, then *Germanicus*, *Valerius Aſiaticus*, *Corbulo*, *Helvidius Priſcus*, *Thraſeas*, *Soranus* and others that reſembled them, who fell under the rage of thoſe Beaſts, nay *Paul* himſelf and his Diſciples were evil doers; and *Macro*, *Narciſſus*, *Pallas*, *Vinnius*, *Laco* and *Tigellinus* were vertuous and good men. If this be ſo, we are beholden to *Filmer* for admoniſhing mankind of the error in which they had ſo long continu'd. If not, thoſe who perſecuted and murder'd them for their Vertues, were not a terror to ſuch as did evil, and a praiſe to thoſe who did well. The worſt men had no need to fear them; but the beſt had, becauſe they were the beſt. All Princes therefore that have power are not to be eſteem'd equally the Miniſters of God. They that are ſo, muſt receive their dignity from a title that is not common to all, even from a juſt employment of their power to the incouragement of Vertue, and to the diſcouragement of Vice. He that pretends to the veneration and obedience due to the Miniſters of God, muſt by his actions manifeſt that he is ſo. And tho I am unwilling to advance a propoſition that may ſound harſhly to tender ears, I am inclin'd to believe, that the ſame rule, which obliges us to yield obedience to the good Magiſtrate who is the Miniſter of God, and aſſures us that in obeying him we obey God, dos equally oblige us not to obey thoſe who make themſelves the Miniſters of the Devil, leſt in obeying them, we obey the Devil, whoſe works they do.

That none but ſuch as are wilfully ignorant may miſtake *Paul*'s meaning, *Peter*, who was directed by the ſame Spirit, ſays diſtinctly, *Submit*

* Ob virtutes certiſſimum exitium.
† Ipſam exſcindere virtutem.
‖ Virtutibus infeſtum.

your

CHAP. III. *your ſelves to every Ordinance of man for the Lord's ſake.* If therefore there be ſeveral Ordinances of men tending to the ſame end, that is, the obtaining of Juſtice, by being a terror to the evil and a praiſe to the good, the like obedience is for conſcience ſake enjoin'd to all, and upon the ſame condition. But as no man dares to ſay, that *Athens* and *Perſia*, *Carthage* and *Egypt*, *Switzerland* and *France*, *Venice* and *Turky* were and are under the ſame Government; the ſame obedience is due to the Magiſtrate in every one of thoſe places, and all others on the ſame account, whilſt they continue to be the Miniſters of God.

If our Author ſay, that *Peter* cannot comprehend Kings under the name of human Ordinances, ſince *Paul* ſays they are the Ordinance of God, I may as well ſay that *Paul* cannot call that the Ordinance of God, which *Peter* calls the ordinance of man. But as it was ſaid of *Moſes* and *Samuel*, that they who ſpoke by the ſame Spirit could not contradict each other, *Peter* and *Paul* being full of Wiſdom and Sanctity, and inſpir'd by the ſame Spirit, muſt needs ſay the ſame thing; and *Grotius* ſhews that they perfectly agree, tho the one calls Kings, Rulers and Governors, the Ordinance of Man, and the other the Ordinance of God; inaſmuch as God having from the beginning ordain'd that men ſhould not live like Wolves in woods, every man by himſelf, but together in Civil Societys, left to every one a liberty of joining with that Society which beſt pleas'd him, and to every Society to create ſuch Magiſtrats, and frame ſuch Laws as ſhould ſeem moſt conducing to their own good, according to the meaſure of light and reaſon they might have. And every Magiſtracy ſo inſtituted might rightly be call'd the Ordinance of Man who was the Inſtituter, and the Ordinance of God according to which it was inſtituted; * *becauſe*, ſays he, *God approv'd and ratify'd the ſalutary Conſtitutions of Government made by men.*

But, ſays our Author, *Peter* expounds his own words of the human Ordinance to be the King, who is the *Lex loquens*: but he ſays no ſuch thing, and I do not find that any ſuch thought ever enter'd into the Apoſtle's mind. The words are often found in the works of *Plato* and *Ariſtotle*, but apply'd only to ſuch a man as is a King by nature, who is endow'd with all the vertues that tend to the good of human Societys in a greater meaſure than any or all thoſe that compoſe them; which Character, I think, will be ill apply'd to all Kings. And that this may appear to be true, I deſire to know whether it would well have agreed with *Nero*, *Caligula*, *Domitian*, or others like to them; and if not with them, then not with all, bot only with thoſe who are endow'd with ſuch Vertues. But if the King be made by man, he muſt be ſuch as man makes him to be; and if the power of a Law had bin given by any human Sanction to the word of a fooliſh, mad or wicked man (which I hardly believe) it would be deſtroy'd by its own iniquity and turpitude, and the People left under the obligation of rendring obedience to thoſe, who ſo uſe the Sword that the Nations under them may live ſoberly, peaceably and honeſtly.

This obliges me a little to examin what is meant by the Sword. The Pope ſays there are two Swords, the one temporal, the other ſpiritual; and that both of them were given to *Peter* and to his Succeſſors. Others more rightly underſtand the two Swords to be that of War and that of

* Quia ſalubrem hominum Conſtitutionem Deus probavit & ſanxit. *De Jur. Bel. & Pac.*

Juſtice,

Juſtice, which according to ſeveral Conſtitutions of Government have bin committed to ſeveral hands, under ſeveral conditions and limitations. The Sword of Juſtice comprehends the Legiſlative and the Executive Power: the one is exercis'd in making Laws, the other in judging Controverſys according to ſuch as are made. The military Sword is us'd by thoſe Magiſtrats who have it, in making War or Peace with whom they think fit; and ſometimes by others who have it not, in purſuing ſuch Wars as are reſolv'd upon by another Power. The Jewiſh Doctors generally agree that the Kings of *Judah* could make no Law, becauſe there was a curſe denounc'd againſt thoſe who ſhould add to, or detract from that which God had given by the hand of *Moſes*; that they might ſit in Judgment with the High Prieſt and Sanhedrin, but could not judg by themſelves, unleſs the Sanhedrin did plainly fail of performing their duty. Upon this account *Maimonides* excuſes *David* for commanding *Solomon* not to ſuffer the grey hairs of *Joab* to go down to the grave in peace, and *Solomon* for appointing him to be kill'd at the foot of the Altar: for he having kill'd *Abner* and *Amaſa*, and by thoſe actions ſhed the blood of war in time of peace, the Sanhedrin ſhould have puniſh'd him; but being protected by favor or power, and even *David* himſelf fearing him, *Solomon* was put in mind of his duty, which he perform'd, tho *Joab* laid hold upon the horns of the Altar, which by the expreſs words of the Law gave no protection to wilful Murderers. SECT. 10.

The uſe of the military Sword amongſt them was alſo moderated. Their Kings might make War upon the ſeven accurſed Nations that they were commanded to deſtroy, and ſo might any other man; for no peace was to be made with them: but not againſt any other Nation, without the aſſent of the Sanhedrin. And when *Amaziah* contrary to that Law had fooliſhly made war upon *Joaſh* King of *Iſrael*, and thereby brought a great ſlaughter upon *Judah*, the Princes, that is the Sanhedrin, combin'd againſt him, purſu'd him to *Lachiſh*, and kill'd him there.

The Legiſlative Power of *Sparta* was evidently in the People. The Laws that go under the name of *Lycurgus*, were propos'd by him to the general Aſſembly of the People, and from them receiv'd their Authority: But the diſciplin they contain'd was of ſuch efficacy for framing the minds of men to vertue, and by baniſhing Silver and Gold they ſo far baniſh'd all manner of Crimes, that from the inſtitution of thoſe Laws to the times of their Corruption, which was more than eight hundred years, we hardly find that three men were put to death, of whom two were Kings; ſo that it ſeems difficult to determin where the power of judging did reſide, tho 'tis moſt probable, conſidering the nature of their Government, that it was in the Senat, and in Caſes extraordinary in the *Ephori*, with a right of appealing to the People. Their Kings therefore conld have little to do with the Sword of Juſtice, neither the Legiſlative nor the Judicial Power being any ways in them.

The military Sword was not much more in their power, unleſs the excellency of their Vertues gave them the credit of perſuading, when the Law deny'd the right of commanding. They were oblig'd to make war againſt thoſe, and thoſe only, who were declar'd Enemys by the Senat and *Ephori*, and in the manner, place and time they directed: ſo that *Ageſilaus*, tho carrying on a glorious War in *Perſia*, no ſooner receiv'd the Parchment Roll, wherein he was commanded by the *Ephori* to come home for the defence of his own Country, than he immediately

CHAP. III. return'd, and is on that account call'd by no leſs a man than *Xenophon*, a good and faithful King rendring obedience to the Laws of his Country.

By this it appears that there are Kings, who may be fear'd by thoſe that do ill, and not by ſuch as do well; for having no more power than what the Law gives, and being oblig'd to execute it as the Law directs, they cannot depart from the Precept of the Apoſtle. My own actions therefore, or the ſenſe of my own guilt ariſing from them, is to be the meaſure of my fear of that Magiſtrate who is the Miniſter of God, and not his Power.

The like may be ſaid of almoſt all the Nations of the world, that have had any thing of Civil Order amongſt them. The ſupreme Magiſtrate, under what name ſoever he was known, whether King, Emperor, Aſymnetes, Suffetes, Conſul, Dictator, or Archon, has uſually a part aſſign'd to him in the adminiſtration of Juſtice and making War; but that he may know it to be aſſign'd and not inherent, and ſo aſſign'd as to be employ'd for the publick good, not to his own profit or pleaſure, it is circumſcrib'd by ſuch rules as he cannot ſafely tranſgreſs. This is above all ſeen in the German Nations, from whom we draw our Original and Government; and is ſo well deſcrib'd by *Tacitus* in his treatiſe of their Cuſtoms and Manners, that I ſhall content my ſelf to refer to it, and to what I have cited from him in the former part of this Work. The Saxons coming into our Country, retain'd to themſelves the ſame rights. They had no Kings but ſuch as were ſet up by themſelves, and they abrogated their Power when they pleas'd. **Offa* acknowledg'd *that he was choſen for the defence of their Liberty, not from his own merit, but by their favor*; and in the *Conventus Pananglicus*, at which all the chief men as well Secular as Eccleſiaſtical were preſent, it was decreed by the King, Arch-biſhops, Biſhops, Abbots, Dukes and Senators, that the Kings ſhould be choſen by the Prieſts, and by the Elders of the People. In purſuance of which, *Egbert*, who had no right to the ſucceſſion, was made King. *Ethelwerd* was choſen in the ſame manner † by the conſent of all. *Ethelwolf* a Monk, for want of a better, was advanc'd to the ſame Honor. His Son *Alfred*, tho crown'd by the Pope, and marrying without the conſent of the Nobility and Kingdom ‖ againſt their Cuſtoms and Statutes, acknowledg'd that he had receiv'd the Crown from the bounty of the Princes, Elders, and People; and in his Will declar'd, that he left the People as he had found them, free as the inward thoughts of Man. His Son *Edward* (*a*) was elected to be his Succeſſor. *Ethelſtan*, tho a Baſtard, and without all Title, was elected by the conſent of the Nobility and People. *Eadred* by the ſame Authority was elected and prefer'd before the Sons of *Edmond* his Predeceſſor. *Edwin*, tho rightly choſen, was depos'd for his ill life, and *Edgar* (*b*) elected King, *by the will of God, and conſent of the People.* But he alſo was depriv'd of the Crown for the Rape of a Nun, and after ſeven years reſtor'd by the whole People, *coram omni multitudine*

* Ad Libertatis veſtræ tuitionem non meis meritis, ſed ſola liberalitate veſtra.
† Omnium conſenſu.
‖ Contra morem & ſtatuta.
(*a*) Succeſſor Monarchiæ electus.
(*b*) Et eligerunt Deo dictante Edgarum in Regem annuente populo.

populi

populi Anglorum. *Ethelred*, who is ſaid to have bin * cruel in the beginning, wretched in the courſe, and infamous in the end of his Reign, was depos'd by the ſame Power that had advanc'd him. *Canutus* made a † Contract with the Princes and the whole People, and thereupon was by general conſent crown'd King over all *England.* After him *Harold* was choſen in the uſual manner. He being dead, a Meſſage was ſent to *Hardi Canute* with an offer of the Crown, which he accepted, and accordingly was receiv'd. *Edward* the Confeſſor was || elected King with the conſent of the Clergy and People at *London*; and *Harold* excus'd himſelf for not performing his Oath to *William* the *Norman*, becauſe he ſaid he had made it unduly and preſumptuouſly, (*a*) without conſulting the Nobility and People, and without their Authority. *William* was receiv'd with great joy by the Clergy and People, and ſaluted King by all, ſwearing to obſerve the antient, good, and approv'd Laws of *England:* and tho he did but ill perform his Oath, yet before his death he ſeem'd to repent of the ways he had taken; and only wiſhing his Son might be King of *England*, he confeſt in his laſt Will made at *Caen* in *Normandy*, (*b*) that he neither found nor left the Kingdom as an Inheritance. If he poſſeſt no right except what was confer'd upon him, no more was confer'd than had bin enjoy'd by the antient Kings, according to the approv'd Laws which he ſwore to obſerve. Thoſe Laws gave no power to any, till he was elected; and that which they did then give was ſo limited, that the Nobility and People reſerv'd to themſelves the diſpoſition of the greateſt Affairs, even to the depoſition and expulſion of ſuch as ſhould not well perform the duty of their Oath and Office. And I leave it to our Author to prove, how they can be ſaid to have had the Sword and the Power ſo as to be fear'd, otherwiſe than, as the Apoſtle ſays, by thoſe that do evil; which we acknowledg to be not only in the King, but in the loweſt Officer of Juſtice in the world. SECT. 10.

If it be pretended that our later Kings are more to be fear'd than *William* the *Norman*, or his Predeceſſors, it muſt not be, as has bin prov'd, either from the general right of Kings, or from the Doctrin of the Apoſtle, but from ſomething elſe that is peculiar and ſubſequent, which I leave our Author's Diſciples to prove, and an anſwer may be found in due time. But to ſhow that our Anceſtors did not miſtake the words of the Apoſtle, 'tis good to conſider when, to whom, and upon what occaſion he ſpoke. The Chriſtian Religion was then in its infancy: his diſcourſes were addreſt to the Profeſſors of it, who tho they ſoon grew to be conſiderable in number, were for the moſt part of the meaneſt ſort of People, Servants or Inhabitants of the Citys, rather than Citizens and Freemen; join'd in no civil Body or Society, nor ſuch as had or could have any part in the Government. The occaſion was to ſuppreſs the dangerous miſtake of many converted Jews and others, who knowing themſelves to be freed from the power of Sin and the Devil, preſum'd they were alſo freed from the obligation of human Laws. And if this Error had not bin crop'd in the bud, it would have given occaſion to their Enemys, (who deſir'd nothing more) to deſtroy them all;

* Sævus in principio, miſer in medio, turpis in exitu.

† Canutus fœdus cum principibus & omni populo, & illi cum ipſo percuſſerunt.

|| Annuente Clero & populo Londini, in regem eligitur.

(*a*) Abſq; generali Senatus & Populi conventu & edicto. *Matth. Pariſ. Gul. Gemit. &c.*

(*b*) Neminem Anglici regni conſtituo hæredem, non enim tantum decus hæreditario jure poſſedi. *Ibid.*

CHAP. III. and who knowing that ſuch Notions were ſtirring among them, would have bin glad, that they who were not eaſily to be diſcover'd, had by that means diſcover'd themſelves.

This induc'd a neceſſity of diverting a poor, mean, ſcatter'd People from ſuch thoughts concerning the State; to convince them of the Error into which they were fallen, that Chriſtians did not owe the ſame obedience to Civil Laws and Magiſtrats as other men; and to keep them from drawing deſtruction upon themſelves by ſuch ways, as not being warranted by God, had no promiſe of his Protection. St. *Paul*'s work was to preſerve the Profeſſors of Chriſtianity, as appears by his own words:

1 Tim. 2. *I exhort, that firſt of all, Supplications, Prayers, Interceſſions, and giving of thanks be made for all men; for Kings, and for all that are in Authority, that we may live a quiet and peaceable life in all godlineſs and honeſty. Put*

Tit. 3. *them in mind to be ſubject to Principalitys and Powers, to obey Magiſtrats, to be ready for every good work.* St. *Peter* agrees with him fully in deſcribing the Magiſtrate and his Duty; ſhewing the reaſons why obedience ſhould be paid to him, and teaching Chriſtians to be humble and contented with their condition, as free, yet not uſing their Liberty for a cover to malice; and not only to fear God and honor the King (of which conjunction of words ſuch as *Filmer* are very proud) but *to honor all men*, as is ſaid in the ſame verſe. This was in a peculiar manner the work of that time, in which thoſe who were to preach and propagate the Goſpel, were not to be diverted from that Duty, by entangling themſelves in the care of State-affairs; but it dos in ſome ſenſe agree with all times: for it can never be the duty of a good man to oppoſe ſuch a Magiſtrate as is the Miniſter of God, in the exerciſe of his Office, nor to deny to any man that which is his due.

But as the Chriſtian Law exempts no man from the Duty he ows to his Father, Maſter, or the Magiſtrate, it dos not make him more a Slave than he was before, nor deprive him of any natural or civil Right; and if we are oblig'd to pay Tribute, Honor, or any other thing where it is not due, it muſt be by ſome Precept very different from that which commands us to give to *Ceſar* that which is *Ceſar*'s. If he define the Magiſtrate to be the Miniſter of God doing Juſtice, and from thence draws the Reaſons he gives for rendring Obedience to him, we are to inquire whoſe Miniſter he is who overthrows it, and look for ſome other reaſon for rendring obedience to him than the words of the Apoſtles. If *David*, who was willing to lay down his life for the people, who *hated iniquity*, and would not *ſuffer a liar to come into his preſence*, was the Miniſter of God, I deſire to know whoſe Miniſter *Caligula* was, who ſet up himſelf to be worſhip'd for a God, and would at once have deſtroy'd all the people that he ought to have protected? Whoſe Miniſter was *Nero*, who, beſides the abominable impuritys of his life, and hatred to all Vertue as contrary to his Perſon and Government, ſet fire to the great City? If it be true, that *contrariorum contraria eſt ratio*, theſe queſtions are eaſily decided; and if the reaſons of things are eternal, the ſame diſtinction grounded upon truth will be good for ever. Every Magiſtrate and every man by his works will for ever declare whoſe Miniſter he is, in what ſpirit he lives, and conſequently what obedience is due to him according to the Precept of the Apoſtle. If any man ask what I mean by Juſtice, I anſwer, That the Law of the Land, as far as it is *Sanctio recta, jubens honeſta, prohibens contraria*, declares what it is. But there have bin and are Laws that are neither juſt nor commendable. There was a Law in *Rome*,

that

that no God ſhould be worſhip'd without the conſent of the Senat: Upon which *Tertullian* ſays ſcoffingly, * *That God ſhall not be God, unleſs he pleaſe Man:* and by virtue of this Law the firſt Chriſtians were expos'd to all manner of crueltys; and ſome of the Emperors (in other reſpects excellent Men) moſt foully polluted themſelves and their Government with innocent Blood. *Antoninus Pius* was taken in this ſnare; and *Tertullian* bitterly derides *Trajan* for glorying in his Clemency, when he had commanded *Pliny*, who was Proconſul in *Aſia*, not to make any ſearch for Chriſtians, but only to puniſh them according to Law when they ſhould be brought before him. No Municipal Law can be more firmly eſtabliſh'd by human Authority, than that of the Inquiſition in *Spain*, and other places: And thoſe accurſed Tribunals, which have ſhed more Chriſtian blood than all the Pagans that ever were in the world, are commonly call'd *The Holy Office*. If a Gentleman in *Poland* kill a Peaſant, he is by a Law now in uſe free from puniſhment, if he lay a Ducat upon the dead Body. *Evenus* the Third, King of *Scotland*, caus'd a Law to paſs, by which the Wives and Daughters of Noblemen were expos'd to his Luſt, and thoſe of the Commons to the Luſt of the Nobility. Theſe, and an infinite number of others like to them, were not right Sanctions, but ſuch as have produc'd unſpeakable miſchiefs and calamitys. They were not therefore Laws: the name of Juſtice is abuſively attributed to them: Thoſe that govern by them cannot be the Miniſters of God: and the Apoſtle commanding our obedience to the Miniſter of God for our good, commands us not to be obedient to the Miniſter of the Devil to our hurt; for we cannot ſerve two Maſters. SECT. II.

* Niſi homini Deus placuerit, Deus non erit.

SECT. XI.

That which is not juſt, is not Law; and that which is not Law, ought not to be obey'd.

OUR Author having for a long time pretended Conſcience, now pulls off his Maſk, and plainly tells us, that 'tis not on account of Conſcience, but for fear of puniſhment or in hope of reward, that Laws are to be obey'd. *That familiar diſtinction of the Schoolmen*, ſays he, *whereby they ſubject Kings to the directive, but not to the coactive Power of the Law, is a confeſſion, that Kings are not bound by the poſitive Laws of any Nation, ſince the compulſory Power of Laws is that which properly makes Laws to be Laws.* Not troubling my ſelf with this diſtinction of the Schoolmen, nor acknowledging any truth to be in it, or that they are competent Judges of ſuch matters, I ſay, that if it be true, our Author's concluſion is altogether falſe; for the directive Power of the Law, which is certain, and grounded upon the inherent good and rectitude that is in it, is that alone which has a power over the Conſcience, whereas the coercive is merely contingent; and the moſt juſt powers commanding the moſt juſt things, have ſo often fallen under the violence of the moſt unjuſt men commanding the moſt execrable villanys, that if they were therefore to be obey'd, the Conſciences of men muſt be regulated by the ſucceſs of a Battel or Conſpiracy, than which nothing can be affirm'd more impious and abſurd,

CHAP. III. ſurd. By this rule *David* was not to be obey'd, when by the wickedneſs of his Son he was driven from *Jeruſalem*, and depriv'd of all coercive Power; and the conſcientious obedience that had bin due to him was transfer'd to *Abſalom*, who ſought his life. And in St. *Paul*'s time, it was not from him who was guided only by the Spirit of God, and had no manner of coercive Power, that Chriſtians were to learn their duty, but from *Caligula*, *Claudius*, and *Nero*, who had that Power well eſtabliſh'd by the mercenary Legions. If this were ſo, the Governments of the World might be juſtly call'd *Magna Latrocinia*; and men laying aſide all conſiderations of Reaſon or Juſtice, ought only to follow thoſe who can inflict the greateſt Puniſhments, or give the greateſt Rewards. But ſince the reception of ſuch opinions would be the extirpation of all that can be call'd good, we muſt look for another rule of our obedience, and ſhall find that to be the Law, which being, as I ſaid before, *Sanctio recta*, muſt be founded upon that eternal Principle of Reaſon and Truth, from whence the rule of Juſtice which is ſacred and pure ought to be deduc'd, and not from the deprav'd will of man, which fluctuating according to the different Intereſts, Humors and Paſſions that at ſeveral times reign in ſeveral Nations, one day abrogates what had bin enacted the other. The Sanction therefore that deſerves the name of a Law, *which derives not its excellency from Antiquity, or from the dignity of the Legiſlators, but from an intrinſick equity and juſtice*, ought to be made in purſuance of that univerſal Reaſon to which all Nations at all times owe an equal veneration and obedience. By this we may know whether he who has the Power dos juſtice or not: Whether he be the Miniſter of God to our good, a protector of good, and a terror to ill men; or the Miniſter of the Devil to our hurt, by encouraging all manner of evil, and endeavouring by vice and corruption to make the people worſe that they may be miſerable, and miſerable that they may be worſe. I dare not ſay I ſhall never fear ſuch a man if he be arm'd with power: But I am ſure I ſhall never eſteem him to be the Miniſter of God, and ſhall think I do ill if I fear him. If he has therefore a coercive Power over me, 'tis thro my weakneſs; *for* * *he that will ſuffer himſelf to be compel'd, knows not how to die.* If therefore he who dos not follow the directive Power of the Law, be not the Miniſter of God, he is not a King, at leaſt not ſuch a King as the Apoſtle commands us to obey: And if that Sanction which is not juſt be not a Law, and can have no obligation upon us, by what Power ſoever it be eſtabliſh'd, it may well fall out, that the Magiſtrate who will not follow the directive Power of the Law, may fall under the coercive; and then the fear is turn'd upon him, with this aggravation, that it is not only actual, but juſt. This was the caſe of *Nero*; the coercive Power was no longer in him, but againſt him. He that was forc'd to fly and to hide himſelf, that was abandon'd by all men, and condemn'd to die † *according to antient Cuſtom*, did, as I ſuppoſe, fear, and was no way to be fear'd. The like may be ſaid of *Amaziah* King of *Judah*, when he fled to *Lachiſh*; of *Nabuchodonozor*, when he was driven from the ſociety of men; and of many Emperors and Kings of the greateſt Nations in the world, who have bin ſo utterly depriv'd of all Power, that they have bin impriſon'd, depos'd, confin'd to Monaſterys, kill'd, drawn thro the Streets, cut in pieces, thrown into Rivers, and indeed ſuffer'd all that could be ſuffer'd by the vileſt Slaves.

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* Qui cogi poteſt neſcit mori. † More Majorum. *Sueton.*

If

If any man ſay theſe things ought not to have bin done, an anſwer may be given in a proper place; tho'twere enough to ſay, that the Juſtice of the world is not to be overthrown by a mere Aſſertion without proof: but that is nothing to the preſent Queſtion. For if it was ill done to drive *Nero* to deſpair, or to throw *Vitellius* into the common Shore, it was not becauſe they were the Miniſters of God; for their Lives were no way conformable to the character which the Apoſtle gives of thoſe who deſerve that Sacred Name. If thoſe only are to be fear'd who have the Power, there was a time when they were not to be fear'd, for they had none; and if ſuch Princes are not oblig'd by the Law as are not under the coercive Power, it gave no exemption to thoſe, for they fell under it: and as we know not what will befal others who walk in their ſteps till they are dead, we cannot till then know whether they are free from it or not. SECT. 12.

SECT. XII.

The Right and Power of a Magiſtrate depends upon his Inſtitution, not upon his Name.

'TIS uſual with Impoſtors to obtrude their deceits upon men, by putting falſe names upon things, by which they may perplex mens minds, and from thence deduce falſe Concluſions. But the points above-mention'd being ſettled, it imports little whether the Governors to whom *Peter* enjoins obedience, were only Kings, and ſuch as are employ'd by them, or all ſuch Magiſtrats as are the Miniſters of God; for he informs us of their Works that we may know them, and accordingly yield obedience to them. This is that therefore which diſtinguiſhes the Magiſtrate to whom obedience is due, from him to whom none is due, and not the name that he either aſſumes, or others put upon him. But if there be any virtue in the word King, and that the admirable Prerogatives, of which our Author dreams, were annex'd to that Name, they could not be apply'd to the *Roman* Emperors, nor their ſubſtituted Officers, for they had it not. 'Tis true, *Mark Anthony*, in a drunken fit, at the celebration of the impure *Lupercalia*, did offer a Diadem to *Julius Ceſar*, which ſome flatterers preſt him to accept, (as our great Lawyers did *Cromwel*) but he durſt not think of putting it upon his Head. *Caligula*'s affectation of that title, and the enſigns of Royalty he wore, were taken for the moſt evident marks of his madneſs: and tho the greateſt and braveſt of their men had fallen by the Wars or Proſcriptions; tho the beſt part of the Senat had periſh'd in *Theſſaly*; tho the great City was exhauſted, and *Italy* brought to deſolation, yet they were not reduc'd ſo low as to endure a King. *Piſo* was ſufficiently addicted to *Tiberius*, yet he could not ſuffer that *Germanicus* ſhould be treated as the Son of a King; *Principis Romani non Parthorum regis filio has epulas dari.* And whoever underſtands the Latin Tongue, and the Hiſtory of thoſe times, will eaſily perceive that the word *Princeps* ſignify'd no more than a principal or eminent man, as has bin already prov'd: and the words of *Piſo* could have no other meaning, than that the Son of a *Roman* ought not to be diſtinguiſh'd from others, as the Sons of the *Parthian* Kings were. This is verify'd by his Letter to *Tiberius* under the name of Friend, and the anſwer

CHAP. III.

anſwer of *Tiberius* promiſing to him **whatſoever one friend could do for another.* Here was no mention of Majeſty or Sovereign Lord, nor the baſe ſubſcriptions of Servant, Subject, or Creature. And I fear, that as the laſt of thoſe words was introduc'd amongſt us by our Biſhops, the reſt of them had bin alſo invented by ſuch Chriſtians as were too much addicted to the Aſiatick Slavery. However, the name of King was never ſolemnly aſſum'd by, nor confer'd upon thoſe Emperors, and could have confer'd no right, if it had. They exercis'd as they pleas'd, or as they durſt, the power that had bin gain'd by violence or fraud. The exorbitances they committed, could not have bin juſtify'd by a Title, any more than thoſe of a Pyrat who ſhould take the ſame. It was no otherwiſe given to 'em than by way of aſſimilation, when they were guilty of the greateſt Crimes: and *Tacitus* deſcribing the deteſtable Luſt of *Tiberius*, ſays, *Quibus adeo indomitis exarſerat, ut more Regio pubem ingenuam ſtupris pollueret; nec formam tantum & decora corporis, ſed in his modeſtam pueritiam, in aliis majorum imagines, incitamentum cupiditatis habebat.* He alſo informs us that *Nero* took his time to put *Bareas Soranus* to death, who was one of the moſt vertuous men of that age, when *Tiridates* King of *Armenia* was at *Rome*; ‖*That he might ſhew the Imperial Grandeur by the ſlaughter of the moſt illuſtrious men, which he accounted a Royal Action.* I leave it to the judgment of all wiſe men, whether it be probable that the Apoſtles ſhould diſtinguiſh ſuch as theſe from other Magiſtrats; and dignify thoſe only with the Title of God's Miniſters, who diſtinguiſh'd themſelves by ſuch ways; or that the ſucceeding Emperors ſhould be ennobled with the ſame Prerogative, who had no other Title to the name than by reſembling thoſe that had it in ſuch things as theſe. If this be too abſurd and abominable to enter into the heart of a man, it muſt be concluded, that their intention was only to divert the poor People to whom they preach'd, from involving themſelves in the care of Civil matters, to which they had no call. And the Counſel would have bin good (as things ſtood with them) if they had bin under the power of a Pyrat, or any other villain ſubſtituted by him.

Annal. l. 6.

But tho the Apoſtles had look'd upon the Officers ſet over the Provinces belonging to the Roman Empire, as ſent by Kings, I deſire to know whether it can be imagin'd, that they could think the ſubordinate Governors to be ſent by Kings, in the Countrys that had no Kings; or that obedience became due to the Magiſtrats in *Greece*, *Italy*, or other Provinces under the juriſdiction of *Rome*, only after they had Emperors, and that none was due to them before? The *Germans* had then no King: The brave *Arminius* had bin lately kill'd for aiming at a Crown. When he had blemiſh'd all his Vertues by that attempt, they forgot his former Services. They never conſider'd how many Roman Legions he had cut in pieces, nor how many thouſands of their Allies he had deſtroy'd. His Valor was a crime deſerving death, when he ſought to make a Prey of his Country, which he had ſo bravely defended, and to enſlave thoſe who with him had fought for the publick Liberty. But if the Apoſtles were to be underſtood to give the name of God's Miniſters only to Kings, and thoſe who are employ'd by them, and that obedience is due

* Quod amicus amico præſtare poteſt. *Tacit.*

‖ Ut magnitudinem Imperatoriam cæde inſignium virorum quaſi Regio facinore oſtentaret. *An. L.* 16.

to

to no other, a domeſtick Tyrant had bin their greateſt Benefactor. He had ſet up the only Government that is authoriz'd by God, and to which a conſcientious obedience is due. *Agathocles*, *Dionyſius*, *Phalaris*, *Phæreus*, *Piſiſtratus*, *Nabis*, *Machanidas*, and an infinite number of the moſt deteſtable Villains that the world has ever produc'd, did confer the ſame benefits upon the Countrys they enſlav'd. But if this be equally falſe, ſottiſh, abſurd, and execrable, all thoſe Epithets belong to our Author and his Doctrin, for attempting to depreſs all modeſt and regular Magiſtracys, and endeavouring to corrupt the Scripture to patronize the greateſt of Crimes. No man therefore who dos not delight in error, can think that the Apoſtle deſign'd preciſely to determin ſuch queſtions as might ariſe concerning any one man's right, or in the leaſt degree to prefer any one form of Government before another. In acknowledging the Magiſtrate to be Man's Ordinance, he declares that Man who makes him to be, may make him to be what he pleaſes; and tho there is found more prudence and vertue in one Nation than in another, that Magiſtracy which is eſtabliſh'd in any one ought to be obey'd, till they who made the eſtabliſhment think fit to alter it. All therefore whilſt they continue, are to be look'd upon with the ſame reſpect. Every Nation acting freely, has an equal right to frame their own Government, and to employ ſuch Officers as they pleaſe. The Authority, Right and Power of theſe muſt be regulated by the judgment, right and power of thoſe who appoint them, without any relation at all to the name that is given; for that is no way eſſential to the thing. The ſame name is frequently given to thoſe, who differ exceedingly in right and power; and the ſame right and power is as often annex'd to Magiſtracys that differ in name. The ſame power which had bin in the Roman Kings, was given to the Conſuls; and that which had bin legally in the Dictators for a time not exceeding ſix months, was afterwards uſurp'd by the *Ceſars*, and made perpetual. The ſupreme Power (which ſome pretend belongs to all Kings) has bin and is enjoy'd in the fulleſt extent by ſuch as never had the name; and no Magiſtracy was ever more reſtrain'd than thoſe that had the name of Kings in *Sparta*, *Arragon*, *England*, *Poland*, and other places. They therefore that did thus inſtitute, regulate and reſtrain, create Magiſtracys, and give them names and powers as ſeem'd beſt to them, could not but have in themſelves the coercive as well as the directive over them: for the regulation and reſtriction is coercion; but moſt of all the inſtitution, by which they could make them to be or not to be. As to the exterior force, 'tis ſometimes on the ſide of the Magiſtrate, and ſometimes on that of the People; and as Magiſtrats under ſeveral names have the ſame work incumbent upon 'em, and the ſame Power to perform it, the ſame Duty is to be exacted from them, and render'd to them: which being diſtinctly proportion'd by the Laws of every Country, I may conclude, that all Magiſtratical Power being the Ordinance of Man in purſuance of the Ordinance of God, receives its being and meaſure from the Legiſlative Power of every Nation. And whether the power be plac'd ſimply in one, a few, or many men; or in one body compos'd of the three ſimple Species; whether the ſingle Perſon be call'd King, Duke, Marqueſs, Emperor, Sultan, Mogol, or Grand Signor; or the number go under the name of Senat, Council, Pregadi, Diet, Aſſembly of Eſtates and the like, 'tis the ſame thing. The ſame obedience is equally due to all, whilſt according to the Precept of the Apoſtle, they do the work of God for our good: and if they

SECT. 12.

 depart from it, no one of them has a better Title than the other to our obedience.

SECT. XIII.

Laws were made to direct and inſtruct Magiſtrats, and, if they will not be directed, to reſtrain them.

I Know not who they are that our Author introduces to ſay, that *the firſt invention of Laws was to bridle or moderate the overgreat Power of Kings*; and unleſs they give ſome better proof of their judgment in other things, ſhall little eſteem them. They ſhould have conſider'd, that there are Laws in many places where there are no Kings; that there were Laws in many before there were Kings, as in *Iſrael* the Law was given three hundred years before they had any; but moſt eſpecially, that as no man can be a rightful King except by Law, nor have any juſt Power but from the Law, if that Power be found to be overgreat, the Law that gave it muſt have bin before that which was to moderate or reſtrain it; for that could not be moderated which was not in being. Leaving therefore our Author to fight with theſe Adverſarys if he pleaſe when he finds them, I ſhall proceed to examin his own Poſitions. *The truth is*, ſays he, *the Original of Laws was for the keeping of the Multitude in order. Popular Eſtates could not ſubſiſt at all without Laws, whereas Kingdoms were govern'd many Ages without them. The People of* Athens, *as ſoon as they gave over Kings, were forc'd to give power to* Draco *firſt, then to* Solon, *to make them Laws.* If we will believe him therefore, whereſoever there is a King, or a man who by having power in his hands is in the place of a King, there is no need of Law. He takes them all to be ſo wiſe, juſt, and good, that they are Laws to themſelves, *Leges viventes.* This was certainly verify'd by the whole ſucceſſion of the *Ceſars*, the ten laſt Kings of *Pharamond*'s Race, all the Succeſſors of *Charles* the Great, and others that I am not willing to name; but referring my ſelf to Hiſtory, I deſire all reaſonable men to conſider, whether the piety and tender care that was natural to *Caligula*, *Nero* or *Domitian*, was ſuch a ſecurity to the Nations that liv'd under them, as without Law to be ſufficient for their preſervation: for if the contrary appear to be true, and that their Government was a perpetual exerciſe of rage, malice and madneſs, by which the worſt of men were arm'd with power to deſtroy the beſt, ſo that the Empire could only be ſav'd by their deſtruction, 'tis moſt certain, that mankind can never fall into a condition which ſtands more in need of Laws to protect the innocent, than when ſuch Monſters reign who endeavour their extirpation, and are too well furniſh'd with means to accompliſh their deteſtable deſigns. Without any prejudice therefore to the Cauſe that I defend, I might confeſs that all Nations were at the firſt govern'd by Kings, and that no Laws were impos'd upon thoſe Kings, till they or the Succeſſors of thoſe who had bin advanc'd for their vertues, by falling into vice and corruption, did manifeſtly diſcover the inconveniences of depending upon their will. Beſides theſe, there are alſo children, women and fools, that often come to the ſucceſſion of Kingdoms, whoſe weakneſs and ignorance ſtands in as great need of ſupport and direction, as the deſperate fury

ſury of the others can do of reſtriction. And if ſome Nations had bin ſo ſottiſh, not to foreſee the miſchief of leaving them to their will, o- thers, or the ſame in ſucceeding Ages diſcovering them, could no more be oblig'd to continue in ſo pernicious a folly, than we are to live in that wretched Barbarity in which the *Romans* found our Anceſtors, when they firſt enter'd this Iſland. SECT. 13.

If any man ſay, that *Filmer* dos not ſpeak of Monſters, nor of Children, Women or Fools, but of wiſe, juſt and good Princes: I anſwer, that if there be a right inherent in Kings, as Kings, of doing what they pleaſe; and in thoſe who are next in blood, to ſucceed them and inherit the ſame, it muſt belong to all Kings, and ſuch as upon title of blood would be Kings. And as there is no family that may not, and dos not often produce ſuch as I mention'd, it muſt alſo be acknowledg'd in them: and that power which is left to the wiſe, juſt and good, upon a ſuppoſition that they will not make an ill uſe of it, muſt be devolv'd to thoſe who will not or cannot make a good one; but will either maliciouſly turn it to the deſtruction of thoſe they ought to protect, or thro weakneſs ſuffer it to fall into the hands of thoſe that govern them, who are found by experience to be for the moſt part the worſt of all, moſt apt to uſe the baſeſt arts, and to flatter the humors, and foment the vices that are moſt prevalent in weak and vicious Princes. *Germanicus*, *Corbulo*, *Valerius Aſiaticus*, *Thraſeas*, *Soranus*, *Helvidius Priſcus*, *Julius Agricola*, and other excellent men liv'd in the times of *Tiberius*, *Caligula*, *Claudius* and *Nero*; but the power was put into the hands of *Sejanus*, *Macro*, *Tigellinus*, and other Villains like to them: and I wiſh there were not too many modern examples to ſhew that weak and vicious Princes will never chuſe ſuch as ſhall preſerve Nations from the miſchiefs that would enſue upon their own incapacity or malice; but that they muſt be impos'd upon them by ſome other power, or Nations be ruin'd for want of them. This impoſition muſt be by Law or by Force. But as Laws are made to keep things in good order without the neceſſity of having recourſe to force, it would be a dangerous extravagance to arm that Prince with force, which probably in a ſhort time muſt be oppos'd by force; and thoſe who have bin guilty of this error, as the Kingdoms of the Eaſt, and the antient *Roman* Empire, where no proviſion was made by Law againſt ill-governing Princes, have found no other remedy than to kill them, when by extreme ſufferings they were driven beyond patience: and this fell out ſo often, that few of their Princes were obſerv'd to die by a common death. But ſince the Empire was tranſmitted to *Germany*, and the Emperors reſtrain'd by Laws, that Nation has never bin brought to the odious extremitys of ſuffering all manner of Indignitys, or revenging them upon the heads of Princes. And if the Pope had not diſturb'd 'em upon the account of Religion, nor driven their Princes to diſturb others, they might have paſs'd many ages without any civil Diſſenſion, and all their Emperors might have liv'd happily, and dy'd peaceably, as moſt of them have done.

This might be ſufficient to my purpoſe: for if all Princes without diſtinction, whether good or bad, wiſe or fooliſh, young or old, ſober or mad, cannot be intruſted with an unlimited power; and if the power they have, ought to be limited by Law, that Nations may not, with danger to themſelves, as well as to the Prince, have recourſe to the laſt remedy, this Law muſt be given to all, and the good can be no otherwiſe diſtinguiſh'd from the bad, and the wiſe from the fooliſh, than by the obſervation or violation of it. But I may juſtly go a ſtep farther, and affirm, that this Law

CHAP. III. which by reſtraining the Luſts of the vicious and fooliſh, frequently preſerves them from the deſtruction they would bring upon themſelves or people, and ſometimes upon both, is an aſſiſtance and direction to the wiſeſt and beſt; ſo that they alſo as well as the Nations under them are gainers by it. This will appear ſtrange only to thoſe who know not * *how difficult and inſupportable the Government of great Nations is*, and how unable the beſt man is to bear it. And if it ſurpaſs the ſtrength of the beſt, it may eaſily be determin'd how ordinary men will behave themſelves under it, or what uſe the worſt will make of it. I know there have bin wiſe and good Kings; but they had not an abſolute Power, nor would have accepted it, tho it had bin offer'd: much leſs can I believe that any of them would have tranſmitted ſuch a power to their poſterity, when none of them could know any more than *Solomon*, whether his Son would be a wiſe man or a fool. But if the beſt might have deſir'd, and had bin able to bear it (tho *Moſes* by his own confeſſion was not) that could be no reaſon why it ſhould be given to the worſt and weakeſt, or thoſe who probably will be ſo: Since the aſſurance that it will not be abus'd during the life of one man, is nothing to the conſtitution of a State which aims at perpetuity: And no man knowing what men will be, eſpecially if they come to the power by ſucceſſion, which may properly enough be call'd by chance, 'tis reaſonably to be fear'd they will be bad, and conſequently neceſſary ſo to limit their power, that if they prove to be ſo, the Commonwealth may not be deſtroy'd, which they were inſtituted to preſerve. The Law provides for this in leaving to the King a full and ample power of doing as much good as his heart can wiſh, and in reſtraining his power ſo, that if he ſhould depart from the duty of his Office, the Nation may not periſh. This is a help to thoſe who are wiſe and good, by directing them what they are to do, more certainly than any one man's perſonal judgment can do; and no prejudice at all, ſince no ſuch man did ever complain he was not ſuffer'd to do the evil which he would abhor if it were in his power; and is a moſt neceſſary curb to the fury of bad Princes, preventing them from bringing deſtruction upon the people. Men are ſo ſubject to vices and paſſions, that they ſtand in need of ſome reſtraint in every condition; but moſt eſpecially when they are in power. The rage of a private man may be pernicious to one or a few of his Neighbours; but the fury of an unlimited Prince would drive whole Nations into ruin: And thoſe very men who have liv'd modeſtly when they had little power, have often prov'd the moſt ſavage of all Monſters, when they thought nothing able to reſiſt their rage. 'Tis ſaid of *Caligula*, that no man ever knew † *a better Servant, nor a worſe Maſter*. The want of reſtraint made him a Beaſt, who might have continu'd to be a Man. And tho I cannot ſay, that our Law neceſſarily admits the next in Blood to the Succeſſion (for the contrary is prov'd) yet the facility of our Anceſtors, in receiving children, women, or ſuch men as were not more able than themſelves to bear the weight of a Crown, convinces me fully, that they had ſo fram'd our Laws, that even children, women, or ill men, might either perform as much as was neceſſarily requir'd of 'em, or be brought to reaſon if they tranſgreſt, and arrogated to themſelves more than was allow'd. For 'tis not to be imagin'd,

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* Quam grave & intolerandum ſit cuncta regendi onus. *Tacit.*

† Nec meliorem ſervum, nec deteriorem dominum.

that

that a company of men ſhould ſo far degenerate from their own Nature, which is Reaſon, to give up themſelves and their Poſterity, with all their concernments in the world, to depend upon the will of a child, a woman, an ill man, or a fool. SECT. 13.

If therefore Laws are neceſſary to popular States, they are no leſs to Monarchys; or rather, that is not a State or Government which has them not: and 'tis no leſs impoſſible for any to ſubſiſt without 'em, than for the body of a man to be, and perform its functions without Nerves or Bones. And if any People had ever bin ſo fooliſh to eſtabliſh that which they call'd a Government, without Laws to ſupport and regulate it, the impoſſibility of ſubſiſting would evidence the madneſs of the Conſtitution, and ought to deter all others from following their example.

'Tis no leſs incredible, that thoſe Nations which rejected Kings, did put themſelves into the Power of one man, to preſcribe to 'em ſuch Laws as he pleas'd. But the inſtances alledg'd by our Author are evidently falſe. The *Athenians* were not without Laws when they had Kings: *Ægeus* was ſubject to the Laws, and did nothing of importance without the conſent of the People; and *Theſeus* not being able to pleaſe them, dy'd a baniſh'd man: *Draco* and *Solon* did not make, but propoſe Laws, and they were of no force till eſtabliſh'd by the Authority of the People. The *Spartans* dealt in the ſame manner with *Lycurgus*; he invented their Laws, but the People made them: and when the Aſſembly of all the Citizens had approv'd and ſworn to obſerve them till his return from *Crete*, he reſolv'd rather to die in a voluntary baniſhment, than by his return to abſolve them from the Oath they had taken. The *Romans* alſo had Laws during the Government of their Kings; but not finding in 'em that Perfection they deſir'd, the *Decemviri* were choſen to frame others, which yet were of no value till they were paſs'd by the People in the * *Comitia Centuriata*; and being ſo approv'd, they were eſtabliſh'd. But this Sanction, to which every man, whether Magiſtrate or private Citizen, was ſubject, did no way bind the whole body of the People, who ſtill retain'd in themſelves the Power of changing both the matter and the form of their Government, as appears by their inſtituting and abrogating Kings, Conſuls, Dictators, Tribuns with conſular Power, and *Decemviri*, when they thought good for the Commonwealth. And if they had this Power, I leave our Author to ſhew, why the like is not in other Nations.

Plut. vit. Solon.

* Ingenti hominum conſenſu propoſitis decem Tabulis Populum ad concionem convocarunt, & quod bonum, fauſtum fœlixq; ſit Reipublicæ, ipſis, liberiſq; eorum eſſet, ire, & legere propoſitas juſſere. *T. Liv. l.* 3.

SECT.

SECT. XIV.

Laws are not made by Kings, not becauſe they are buſy'd in greater matters than doing Juſtice, but becauſe Nations will be govern'd by Rule, and not Arbitrarily.

OUR Author, purſuing the miſtakes to which he ſeems perpetually condemn'd, ſays, that *when Kings were either buſy'd in War, or diſtracted with publick Cares, ſo that every private man could not have acceſs unto their Perſons, to learn their Wills and Pleaſures, then of neceſſity were Laws invented, that ſo every particular Subject might find his Prince's Pleaſure.* I have often heard that Governments were eſtabliſh'd for the obtaining of Juſtice; and if that be true, 'tis hard to imagin what buſineſs a ſupreme Magiſtrate can have to divert him from accompliſhing the principal end of his Inſtitution. And 'tis as commonly ſaid, that this diſtribution of Juſtice to a People, is a work ſurpaſſing the ſtrength of any one man. *Jethro* ſeems to have bin a wiſe man, and 'tis probable he thought *Moſes* to be ſo alſo; but he found the work of judging the People to be too heavy for him, and therefore advis'd him to leave the judgment of Cauſes to others who ſhould be choſen for that purpoſe; which advice *Moſes* accepted, and God approv'd. The governing power was as inſupportable to him as the Judicial. He deſir'd rather to dy than to bear ſo great a burden; and God neither accuſing him of ſloth or impatience, gave him ſeventy Aſſiſtants. But if we may believe our Author, the Powers Judicial and Legiſlative, that of judging as well as that of governing, is not too much for any man, woman, or child whatſoever: and that he ſtands in no need, either of God's Statutes to direct him, or Man's Counſel to aſſiſt him, unleſs it be when he is otherwiſe employ'd; and his Will alone is ſufficient for all. But what if he be not buſy'd in greater matters, or diſtracted with publick cares; is every Prince capable of this work? Tho *Moſes* had not found it too great for him; or it ſhould be granted that a man of excellent natural Endowments, great Wiſdom, Learning, Experience, Induſtry, and Integrity might perform it, is it certain that all thoſe who happen to be born in reigning Familys are ſo? If *Moſes* had the Law of God before his eyes, and could repair to God himſelf for the application or explanation of it; have all Princes the ſame Aſſiſtance? Do they all ſpeak with God face to face, or can they do what he did, without the Aſſiſtance he had? If all Kings of mature years are of that perfection, are we aſſur'd that none ſhall dy before his Heir arrive to the ſame? Or ſhall he have the ſame ripeneſs of Judgment in his Infancy? If a Child come to a Crown, dos that immediately infuſe the moſt admirable Endowments and Graces? Have we any promiſe from Heaven, that Women ſhall enjoy the ſame Prerogatives in thoſe Countrys where they are made capable of the Succeſſion? Or dos that Law which renders them capable, not only defend them againſt the frailty of their own Nature, but confer the moſt ſublime vertues upon them? But who knows not, that no Familys do more frequently produce weak or ill men, than the greateſt? and that which is worſe, their greatneſs is a ſnare to them

Exod. 18.

them; ſo that they, who in a low condition might have paſs'd unregarded, being advanc'd to the higheſt, have often appear'd to be, or became the worſt of all Beaſts; and they who advance them are like to them: For if the Power be in the Multitude, as our Author is forc'd to confeſs (otherwiſe the *Athenians* and *Romans* could not have given all as he ſays, nor a part as I ſay, to *Draco*, *Solon*, or the *Decemviri*) they muſt be Beaſts alſo, who ſhould have given away their Right and Liberty, in hopes of receiving Juſtice from ſuch as probably will neither underſtand nor regard it, or protection from thoſe who will not be able to help themſelves, and expect ſuch Vertue, Wiſdom, and Integrity ſhould be, and for ever remain in the Family they ſet up, as was never known to continue in any. If the Power be not confer'd upon them, they have it not; and if they have it not, their want of leiſure to do Juſtice, cannot have bin the cauſe for which Laws are made; and they cannot be the ſignification of their Will, but are that to which the Prince ows obedience, as well as the meaneſt Subject. This is that which *Bracton* calls *eſſe ſub lege*, and ſays, that *Rex in regno ſuperiores habet Deum & Legem.* *Forteſcue* ſays, The Kings of *England* cannot change the Laws: and indeed, they are ſo far from having any ſuch Power, that the Judges ſwear to have no regard to the King's Letters or Commands, but if they receive any, to proceed according to Law, as if they had not bin. And the breach of this Oath dos not only bring a blemiſh upon their Reputation, but expoſes them to capital Puniſhments, as many of them have found. 'Tis not therefore the King that makes the Law, but the Law that makes the King. It gives the rule for Succeſſion, making Kingdoms ſometimes Hereditary, and ſometimes Elective, and (more often than either ſimply) Hereditary under condition. In ſome places Males only are capable of inheriting, in others Females are admitted. Where the Monarchy is regular, as in *Germany*, *England*, &c. the Kings can neither make nor change Laws: They are under the Law, and the Law is not under them; their Letters or Commands are not to be regarded: In the adminiſtration of Juſtice, the queſtion is not what pleaſes them, but what the Law declares to be right, which muſt have its courſe, whether the King be buſy or at leiſure, whether he will or not. The King who never dys, is always preſent in the ſupreme Courts, and neither knows nor regards the pleaſure of the man that wears the Crown. But left by his Riches and Power he might have ſome influence upon judicial Proceedings, the *great Charter* that recapitulates and acknowledges our antient inherent Libertys, obliges him to ſwear, that he will neither ſell, delay, nor deny Juſtice to any man, according to the Laws of the Land: which were ridiculous and abſurd, if thoſe Laws were only the ſignification of his Pleaſure, or any way depended upon his Will. This Charter having bin confirm'd by more than thirty Parliaments, all ſucceeding Kings are under the obligation of the ſame Oath, or muſt renounce the benefit they receive from our Laws, which if they do, they will be found to be equal to every one of us.

SECT. 14.

Our Author, according to his cuſtom, having laid down a falſe propoſition, gos about to juſtify it by miſapplying the examples of *Draco*, *Solon*, the *Decemviri*, and *Moſes*, of whom no one had the Power he attributes to them, and it were nothing to us if they had. The *Athenians* and *Romans*, as was ſaid before, were ſo far from reſigning the abſolute Power without appeal to themſelves, that nothing done by their Magiſtrats was of any force, till it was enacted by the People. And the

power

CHAP. III. power given to the *Decemviri, ſine provocatione*, was only in private caſes, there being no ſuperior Magiſtrate then in being, to whom Appeals could be made. They were veſted with the ſame Power the Kings and Dictators enjoy'd, from whom there lay no Appeal, but to the People, and always to them; as appears by the caſe of *Horatius* in the time of *Tullus Hoſtilius*, that of *Marcus Fabius* when *Papyrius Curſor* was Dictator, and of *Nenius* the Tribun when *Q. Fabius Maximus* was in the ſame Office; all which I have cited already, and refer to them. There was therefore a reſervation of the ſupreme Power in the People, notwithſtanding the creation of Magiſtrats without Appeal; and as it was quietly exercis'd in making Strangers, or whom they pleas'd Kings, reſtraining the power of Dictators to ſix months, and that of the *Decemviri* to two years; when the laſt did, contrary to Law, endeavour by force to continue their Power, the People did by force deſtroy it and them.

The caſe of *Moſes* is yet more clear: he was the moſt humble and gentle of all men: he never rais'd his heart above his brethren, and commanded Kings to live in the ſame modeſty: he never deſir'd the People ſhould depend upon his will: In giving Laws to them he fulfill'd the will of God, not his own; and thoſe Laws were not the ſignification of his will, but of the will of God. They were the production of God's Wiſdom and Goodneſs, not the invention of Man; given to purify the People, not to advance the glory of their Leader. He was not proud and inſolent, nor pleas'd with that oſtentation of Pomp, to which Fools give the name of Majeſty: and whoever ſo far exalts the power of a man, to make Nations depend upon his pleaſure, dos not only lay a burden upon him, which neither *Moſes* nor any other could ever bear, and every wiſe man will always abhor; but with an impious fury, endeavours to ſet up a Government contrary to the Laws of God, preſumes to accuſe him of want of wiſdom, or goodneſs to his own People, and to correct his Errors, which is a work fit to be undertaken by ſuch as our Author.

From hence, as upon a ſolid foundation, he proceeds, and making uſe of King *James*'s words, infers, that Kings are above the Laws, becauſe he ſo teaches us. But he might have remember'd, that having affirm'd the People could not judg of the diſputes that might happen between them and Kings, becauſe they muſt not be judges in their own caſe, 'tis abſurd to make a King judg of a caſe ſo nearly concerning himſelf, in the deciſion of which his own Paſſions and Intereſts may probably lead him into errors. And if it be pretended that I do the ſame, in giving the judgment of thoſe matters to the People, the caſe is utterly different, both in the nature and conſequences. The King's judgment is merely for himſelf; and if that were to take place, all the Paſſions and Vices that have moſt power upon men, would concur to corrupt it. He that is ſet up for the publick good, can have no conteſt with the whole People whoſe good he is to procure, unleſs he deflect from the end of his Inſtitution, and ſet up an Intereſt of his own in oppoſition to it. This is in its nature the higheſt of all delinquencys; and if ſuch a one may be judg of his own crimes, he is not only ſure to avoid puniſhment, but to obtain all that he ſought by them; and the worſe he is, the more violent will his deſires be, to get all the power into his hands, that he may gratify his luſts, and execute his pernicious deſigns. On the other ſide, in a popular Aſſembly, no man judges for himſelf, otherwiſe than as his good

is

is comprehended in that of the publick: Nothing hurts him, but what is prejudicial to the Commonwealth: Such amongſt them as may have receiv'd private injurys, are ſo far only conſider'd by others, as their ſufferings may have influence upon the publick; if they be few, and the matters not great, others will not ſuffer their quiet to be diſturb'd by them; if they are many and grievous, the Tyranny thereby appears to be ſo cruel, that the Nation cannot ſubſiſt, unleſs it be corrected or ſuppreſt. Corruption of Judgment proceeds from private Paſſions, which in theſe caſes never govern: and tho a zeal for the publick good may poſſibly be miſguided, yet till it be ſo, it can never be capable of exceſs. The laſt *Tarquin*, and his leud Son, exercis'd their Fury and Luſt in the murders of the beſt men in *Rome*, and the rape of *Lucretia*. *Appius Claudius* was fill'd with the like madneſs. *Caligula* and *Nero* were ſo well eſtabliſh'd in the power of committing the worſt of Villanys, that we do not hear of any man that offer'd to defend himſelf, or woman that preſum'd to refuſe them. If they had bin judges in theſe caſes, the utmoſt of all Villanys and Miſchiefs had bin eſtabliſh'd by Law: but as long as the judgment of theſe matters was in the People, no private or corrupt Paſſion could take place. *Lucius Brutus*, *Valerius*, *Horatius* and *Virginius*, with the People that follow'd them, did not by the expulſion of the Kings, or the ſuppreſſion of the *Decemviri*, aſſume to themſelves a power of committing Rapes and Murders, nor any advantages beyond what their equals might think they deſerv'd by their vertues, and ſervices to the Commonwealth; nor had they more credit than others for any other reaſon, than that they ſhew'd themſelves moſt forward in procuring the publick Good, and by their Valor and Conduct beſt able to promote it. SECT. 14.

Whatſoever happen'd after the overthrow of their Liberty, belongs not to my Subject, for there was nothing of popularity in the judgments that were made. One Tyrant deſtroy'd another; the ſame Paſſions and Vices for the moſt part reign'd in both: The laſt was often as bad as his Predeceſſor whom he had overthrown; and one was ſometimes approv'd by the People for no other reaſon, than that it was thought impoſſible for him to be worſe than he who was in poſſeſſion of the Power. But if one inſtance can be of force amongſt an infinite number of various Accidents, the words of *Valerius Aſiaticus*, who, by wiſhing he had bin the man that had kill'd *Caligula*, did in a moment pacify the fury of the Soldiers who were looking for thoſe that had done it, ſhew, that as long as men retain any thing of that Reaſon which is truly their Nature, they never fail of judging rightly of Vertue and Vice; whereas violent and ill Princes have always done the contrary, and even the beſt do often deflect from the rules of Juſtice, as appears not only by the examples of *Edward* the firſt and third, who were brought to confeſs it, but even thoſe of *David* and *Solomon*.

Moreover, to ſhew that the deciſion of theſe Controverſys cannot belong to any King, but to the People, we are only to conſider, that as Kings and all other Magiſtrats, whether ſupreme or ſubordinate, are conſtituted only for the good of the People, the People only can be fit to judg whether the end be accompliſh'd. A Phyſician dos not exerciſe his Art for himſelf, but for his Patients; and when I am, or think I ſhall be ſick, I ſend for him of whom I have the beſt opinion, that he may help me to recover or preſerve my health; but I lay him aſide if I find him to be negligent, ignorant or unfaithful: and it would be ridiculous for

CHAP. III. him to ſay, I make my ſelf judg in my own caſe, for I only, or ſuch as I ſhall conſult, am fit to be the judg of it. He may be treacherous, and thro corruption or malice endeavour to poiſon me, or have other defects that render him unfit to be truſted: but I cannot by any corrupt paſſion be led wilfully to do him injuſtice, and if I miſtake, 'tis only to my own hurt. The like may be ſaid of Lawyers, Stewards, Pilots, and generally of all that do not act for themſelves, but for thoſe who employ them. And if a Company going to the *Indys*, ſhould find that their Pilot was mad, drunk, or treacherous, they whoſe lives and goods are concern'd, can only be fit to judg, whether he ought to be truſted or not, ſince he cannot have a right to deſtroy thoſe he was choſen to preſerve; and they cannot be thought to judg perverſly, becauſe they have nothing to lead them but an opinion of truth, and cannot err but to their own prejudice. In the like manner, not only *Solon* and *Draco*, but *Romulus*, *Numa*, *Hoſtilius*, the Conſuls, Dictators and *Decemviri*, were not diſtinguiſh'd from others, that it might be well with them, *Sed ut bonum, felix, fauſtumq; ſit Populo Romano*; but that the proſperity and happineſs of the People might be procur'd: which being the thing always intended, it were abſurd to refer the judgment of the performance to him who is ſuſpected of a deſign to overthrow it, and whoſe paſſions, intereſts, and vices, if he has any, lead him that way. If King *James* ſaid any thing contrary to this, he might be anſwer'd with ſome of his own words; *I was*, ſays he, *ſworn to maintain the Laws of the Land, and therefore had bin perjur'd if I had broken them.* It may alſo be preſum'd, he had not forgotten what his Maſter *Buchanan* had taught in the Books he wrote chiefly for his Inſtruction, that the violation of the Laws of *Scotland* could not have bin ſo fatal to moſt of his Predeceſſors, Kings of that Country (nor as he himſelf had made them to his Mother) if Kings as Kings were above them.

Speech in Star-Chamber, 1616.

Hiſt. Scot.

De Jure Reg. apud Scot.

SECT. XV.

A general preſumption that Kings will govern well, is not a ſufficient ſecurity to the People.

BUT, ſays our Author, *yet will they rule their Subjects by the Law; and a King governing in a ſettled Kingdom, leaves to be a King, and degenerates into a Tyrant, ſo ſoon as he ceaſes to rule according unto his Laws: Yet where he ſees them rigorous or doubtful, he may mitigate or interpret.* This is therefore an effect of their goodneſs; they are above Laws, but will rule by Law, we have *Filmer*'s word for it. But I know not how Nations can be aſſur'd their Princes will always be ſo good: Goodneſs is always accompany'd with Wiſdom, and I do not find thoſe admirable qualitys to be generally inherent or entail'd upon ſupreme Magiſtrats. They do not ſeem to be all alike, and we have not hitherto found them all to live in the ſame Spirit and Principle. I can ſee no reſemblance between *Moſes* and *Caligula*, *Joſhua* and *Claudius*, *Gideon* and *Nero*, *Samſon* and *Vitellius*, *Samuel* and *Otho*, *David* and *Domitian*; nor indeed between the beſt of theſe and their own Children. If the Sons of *Moſes* and *Joſhua* had bin like to them in wiſdom, valor and integrity, 'tis probable

bable they had bin choſen to ſucceed them; if they were not, the like is leſs to be preſum'd of others. No man has yet obſerv'd the Moderation of *Gideon* to have bin in *Abimelech*; the Piety of *Eli* in *Hophni* and *Phineas*; the Purity and Integrity of *Samuel* in *Joel* and *Abiah*, nor the Wiſdom of *Solomon* in *Rehoboam*. And if there was ſo vaſt a difference between them and their Children, who doubtleſs were inſtructed by thoſe excellent men in the ways of Wiſdom and Juſtice, as well by Precept as Example, were it not madneſs to be confident, that they who have neither precept nor good example to guide them, but on the contrary are educated in an utter ignorance or abhorrence of all vertue, will always be juſt and good; or to put the whole power into the hands of every man, woman, or child that ſhall be born in governing Familys, upon a ſuppoſition, that a thing will happen which never did; or that the weakeſt and worſt will perform all that can be hop'd, and was ſeldom accompliſh'd by the wiſeſt and beſt, expoſing whole Nations to be deſtroy'd without remedy, if they do it not? And if this be madneſs in all extremity, 'tis to be preſum'd that Nations never intended any ſuch thing, unleſs our Author prove that all Nations have bin mad from the beginning, and muſt always continue to be ſo. To cure this, he ſays, *They degenerate into Tyrants*; and if he meant as he ſpeaks, it would be enough. For a King cannot degenerate into a Tyrant by departing from that Law which is only the product of his own will. But if he do degenerate, it muſt be by departing from that which dos not depend upon his will, and is a rule preſcrib'd by a power that is above him. This indeed is the Doctrin of *Bracton*, who having ſaid that the Power of the King is the Power of the Law, becauſe the Law makes him King, adds, * *That if he do injuſtice, he ceaſes to be King, degenerates into a Tyrant, and becomes the Vicegerent of the Devil.* But I hope this muſt be underſtood with temperament, and a due conſideration of human frailty, ſo as to mean only thoſe injurys that are extreme; for otherwiſe he would terribly ſhake all the Crowns of the World.

SECT. 15.

But leſt our Author ſhould be thought once in his life to have dealt ſincerely, and ſpoken truth, the next lines ſhew the fraud of his laſt Aſſertion, by giving to the Prince a power of *mitigating or interpreting the Laws that he ſees to be rigorous or doubtful.* But as he cannot degenerate into a Tyrant by departing from the Law which proceeds from his own will, ſo he cannot mitigate or interpret that which proceeds from a ſuperior Power, unleſs the right of mitigating or interpreting be confer'd upon him by the ſame. For as all wiſe men confeſs that † *none can abrogate but thoſe who may inſtitute*, and that all mitigation and interpretation varying from the true ſenſe is an alteration, that alteration is an abrogation; for || whatſoever is chang'd is diſſolv'd, and therefore the power of mitigating is inſeparable from that of inſtituting. This is ſufficiently evidenc'd by *Henry* the Eighth's Anſwer to the Speech made to him by the Speaker of the Houſe of Commons 1545. in which he, tho one of the moſt violent Princes we ever had, confeſſes the Parliament to be the Law-makers, and that an obligation lay upon him rightly to uſe the power with which he was entruſted. The right therefore of altering

* Quia ſi faciat injuriam, deſinit eſſe Rex, & degenerat in tyrannum, & fit vicarius Diaboli. *Bract.*

† Cujus eſt inſtituere, ejus eſt abrogare.

|| Quicquid mutatur diſſolvitur, interit ergo.

CHAP. III. being inſeparable from that of making Laws, the one being in the Parliament, the other muſt be ſo alſo. *Forteſcue* ſays plainly, the King cannot change any Law; *Magna Charta* caſts all upon * the Laws of the Land and Cuſtoms of *England*: But to ſay that the King can by his will make that to be a Cuſtom, or an antient Law, which is not, or that not to be ſo, which is, is moſt abſurd. He muſt therefore take the Laws and Cuſtoms as he finds them, and can neither detract from, nor add any thing to them. The ways are preſcrib'd as well as the end. Judgments are given by equals, *per Pares*. The Judges who may be aſſiſting to thoſe, are ſworn to proceed according to Law, and not to regard the King's Letters or Commands. The doubtful Caſes are reſerv'd, and to be refer'd to the Parliament, as in the Statute of 35 *Edw.* 3*d* concerning Treaſons, but never to the King. The Law intending that theſe Parliaments ſhould be annual, and leaving to the King a power of calling them more often if occaſion require, takes away all pretence of a neceſſity that there ſhould be any other power to interpret or mitigate Laws. For 'tis not to be imagin'd that there ſhould be ſuch a peſtilent evil in any antient Law, Cuſtom, or later Act of Parliament, which being on the ſudden diſcover'd, may not without any great prejudice continue for forty days, till a Parliament may be call'd; whereas the force and eſſence of all Laws would be ſubverted, if under color of mitigating and interpreting, the power of altering were allow'd to Kings, who often want the inclination, and for the moſt part the capacity of doing it rightly. 'Tis not therefore upon the uncertain will or underſtanding of a Prince, that the ſafety of a Nation ought to depend. He is ſometimes a child, and ſometimes overburden'd with years. Some are weak, negligent, ſlothful, fooliſh or vicious: others, who may have ſomething of rectitude in their intentions, and naturally are not uncapable of doing well, are drawn out of the right way by the ſubtilty of ill men who gain credit with them. That rule muſt always be uncertain, and ſubject to be diſtorted, which depends upon the fancy of a man. He always fluctuates, and every paſſion that ariſes in his mind, or is infus'd by others, diſorders him. The good of a People ought to be eſtabliſh'd upon a more ſolid foundation. For this reaſon the Law is eſtabliſh'd, which no paſſion can diſturb. 'Tis void of deſire and fear, luſt and anger. 'Tis *Mens ſine affectu*, written Reaſon, retaining ſome meaſure of the Divine Perfection. It dos not enjoin that which pleaſes a weak, frail man, but without any regard to perſons commands that which is good, and puniſhes evil in all, whether rich or poor, high or low. 'Tis deaf, inexorable, inflexible.

By this means every man knows when he is ſafe or in danger, becauſe he knows whether he has done good or evil. But if all depended upon the will of a man, the worſt would be often the moſt ſafe, and the beſt in the greateſt hazard: Slaves would be often advanc'd, the good and the brave ſcorn'd and neglected. The moſt generous Nations have above all things ſought to avoid this evil: and the vertue, wiſdom and generoſity of each may be diſcern'd by the right fixing of the rule that muſt be the guide of every man's life, and ſo conſtituting their Magiſtracy that it may be duly obſerv'd. Such as have attain'd to this perfection, have always flouriſh'd in vertue and happineſs: They are, as

* Leges terræ & Conſuetudines Angliæ.

Ariſtotle

Ariſtotle ſays, govern'd by God, rather than by men, whilſt thoſe who ſubjected themſelves to the will of a man were govern'd by a beaſt. SECT. 16.

This being ſo, our Author's next clauſe, That *tho a King do frame all his Actions to be according unto Law, yet he is not bound thereunto, but as his good will, and for good example, or ſo far forth as the general Law for the ſafety of the Commonwealth doth naturally bind him*, is wholly impertinent. For if the King who governs not according to Law, degenerates into a Tyrant, he is oblig'd to frame his actions according to Law, or not to be a King; for a Tyrant is none, but as contrary to him, as the worſt of men is to the beſt. But if theſe obligations were unty'd, we may eaſily gueſs what ſecurity our Author's words can be to us, that the King of his own good will, and for a good example, will frame his actions according to the Laws; when experience inſtructs us, that notwithſtanding the ſtricteſt Laws, and moſt exquiſite Conſtitutions, that men of the beſt abilitys in the world could ever invent to reſtrain the irregular appetites of thoſe in power, with the dreadful examples of vengeance taken againſt ſuch as would not be reſtrain'd, they have frequently broken out; and the moſt powerful have for the moſt part no otherwiſe diſtinguiſh'd themſelves from the reſt of men, than by the enormity of their vices, and being the moſt forward in leading others to all manner of crimes by their example.

SECT. XVI.

The obſervation of the Laws of Nature is abſurdly expected from Tyrants, who ſet themſelves up againſt all Laws: and he that ſubjects Kings to no other Law than what is common to Tyrants, deſtroys their being.

OUR Author's laſt clauſe, acknowledging Kings to be bound by a general Law to provide for the ſafety of the People, would be ſufficient for my purpoſe if it were ſincere; for municipal Laws do only ſhew how that ſhould be perform'd: and if the King by departing from that rule degenerates, as he ſays, into a Tyrant, 'tis eaſily determin'd what ought then to be done by the People. But his whole Book being a heap of contradictions and frauds, we can rely upon nothing that he ſays: And his following words, which under the ſame Law comprehend both Kings and Tyrants, ſhew that he intends Kings ſhould be no otherwiſe oblig'd than Tyrants, which is, not at all. *By this means*, ſays he, *are all Kings, even Tyrants and Conquerors, bound to preſerve the Lands, Goods, Libertys and Lives of all their Subjects, not by any municipal Law of the Land, ſo much as by the natural Law of a Father, which obligeth them to ratify the Acts of their Forefathers and Predeceſſors in things neceſſary for the publick good of their Subjects.* If he be therefore in the right, Tyrants and Conquerors are Kings and Fathers. The words that have bin always thought to comprehend the moſt irreconcilable contrariety, the one expreſſing the moſt tender love and care, evidently teſtify'd by the greateſt obligations confer'd upon thoſe who are under it; the other the utmoſt of all injurys that can be offer'd to men, ſignify the ſame thing: There is no difference between a Magiſtrate who

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CHAP. III. is what he is by Law, and a publick Enemy, who by force or fraud ſets himſelf up againſt all Law: And what he ſaid before, that Kings degenerated into Tyrants, ſignifys nothing, for Tyrants alſo are Kings.

His next words are no leſs incomprehenſible; for neither King nor Tyrant can be oblig'd to preſerve the Lands, Goods and Libertys of their Subjects if they have none. But as Liberty conſiſts only in being ſubject to no man's will, and nothing denotes a Slave but a dependence upon the will of another; if there be no other Law in a Kingdom than the will of a Prince, there is no ſuch thing as Liberty. Property alſo is an appendage to Liberty; and 'tis as impoſſible for a man to have a right to Lands or Goods, if he has no Liberty, and enjoys his Life only at the pleaſure of another, as it is to enjoy either when he is depriv'd of 'em. He therefore who ſays Kings and Tyrants are bound to preſerve their Subjects Lands, Libertys, Goods and Lives, and yet lays for a foundation, that Laws are no more than the ſignifications of their Pleaſure, ſeeks to delude the world with words which ſignify nothing.

The vanity of theſe Whimſys will farther appear, if it be conſider'd, that as Kings are Kings by Law, and Tyrants are Tyrants by overthrowing the Law, they are moſt abſurdly join'd together; and 'tis not more ridiculous to ſet him above the Law, who is what he is by the Law, than to expect the obſervation of the Laws that enjoin the preſervation of the Lands, Libertys, Goods and Lives of the People, from one who by fraud or violence makes himſelf maſter of all, that he may be reſtrain'd by no Law, and is what he is by ſubverting all Law.

Beſides, if the *ſafety of the People* be *the ſupreme Law*, and this ſafety extend to, and conſiſt in the preſervation of their Libertys, Goods, Lands and Lives, that Law muſt neceſſarily be the root and beginning, as well as the end and limit of all magiſtratical Power, and all Laws muſt be ſubſervient and ſubordinate to it. The queſtion will not then be what pleaſes the King, but what is good for the People; not what conduces to his profit or glory, but what beſt ſecures the Libertys he is bound to preſerve: he dos not therefore reign for himſelf, but for the People; he is not the Maſter, but the Servant of the Commonwealth; and the utmoſt extent of his Prerogative is to be able to do more good than any private Man. If this be his work and duty, 'tis eaſily ſeen whether he is to judg of his own performance, or they by whom and for whom he reigns; and whether in order to this he be to give Laws, or to receive them. 'Tis ordinarily ſaid in *France*, *Il faut que chacun ſoit ſervi à ſa mode*; Every man's buſineſs muſt be done according to his own mind: and if this be true in particular Perſons, 'tis more plainly ſo in whole Nations. Many eyes ſee more than one: the collected wiſdom of a People much ſurpaſſes that of a ſingle Perſon; and tho he ſhould truly ſeek that which is beſt, 'tis not probable he would ſo eaſily find it, as the body of a Nation, or the principal men choſen to repreſent the whole. This may be ſaid with juſtice of the beſt and wiſeſt Princes that ever were; but another Language is to be us'd when we ſpeak of thoſe who may ſucceed, and who very often, thro the defects of Age, Perſon, or Sex, are neither fit to judg of other mens affairs, nor of their own; and are ſo far from being capable of the higheſt Concernments relating to the ſafety of whole Nations, that the moſt trivial cannot reaſonably be refer'd to them.

There are few men (except ſuch as *Filmer*, who by bidding defiance to the Laws of God and Man, ſeems to declare war againſt both) whom I would not truſt to determin whether a People, that can never fall into Nonage

Nonage or Dotage, and can never fail of having men of Wiſdom and Vertue amongſt 'em, be not more fit to judg in their own Perſons, or by Repreſentatives, what conduces to their own good, than one who at a venture may be born in a certain Family, and who, beſides his own Infirmitys, Paſſions, Vices, or Intereſts, is continually ſurrounded by ſuch as endeavour to divert him from the ways of Truth and Juſtice. And if no reaſonable man dare prefer the latter before the former, we muſt rely upon the Laws made by our Forefathers, and interpreted by the Nation, and not upon the will of a man. SECT. 16.

'Tis in vain to ſay that a wiſe and good Council may ſupply the defects, or correct the Vices of a young, fooliſh, or ill diſpos'd King. For *Filmer* denys that a King, whatever he be without exception, (for he attributes profound wiſdom to all) is oblig'd to follow the advice of his Council; and even he himſelf would hardly have had the impudence to ſay, That good Counſel given to a fooliſh or wicked Prince were of any value, unleſs he were oblig'd to follow it. This Council muſt be choſen by him, or impos'd upon him: if it be impos'd upon him, it muſt be by a Power that is above him, which he ſays cannot be. If choſen by one who is weak, fooliſh, or wicked, it can never be good; becauſe ſuch vertue and wiſdom is requir'd to diſcern and chuſe a few good and wiſe men, from a multitude of fooliſh and bad, as he has not. And it will generally fall out, that he will take for his Counſellors rather thoſe he believes to be addicted to his Perſon or Intereſts, than ſuch as are fitly qualify'd to perform the duty of their places. But if he ſhould by chance, or contrary to his intentions, make choice of ſome good and wiſe men, the matter would not be much mended, for they will certainly differ in opinion from the worſt. And tho the Prince ſhould intend well, of which there is no aſſurance, nor any reaſon to put ſo great a power into his hands if there be none; 'tis almoſt impoſſible for him to avoid the ſnares that will be laid to ſeduce him. I know not how to put a better face upon this matter: for if I examin rather what is probable than poſſible, fooliſh or ill Princes will never chuſe ſuch as are wiſe and good; but favouring thoſe who are moſt like to themſelves, will prefer ſuch as ſecond their vices, humors, and perſonal Intereſts, and by ſo doing will rather fortify and rivet the evils that are brought upon the Nation thro their defects, than cure them. This was evident in *Rehoboam*: he had good Counſel, but he would not hearken to it. We know too many of the ſame ſort; and tho it were not impoſſible (as *Machiavelli* ſays it is) for a weak Prince to receive any benefit from a good Council, we may certainly conclude, that a People can never expect any good from a Council choſen by one who is weak or vicious.

If a Council be impos'd upon him, and he be oblig'd to follow their advice, it muſt be impos'd by a Power that is above him; his Will therefore is not a Law, but muſt be regulated by the Law: the Monarchy is not above the Law; and if we will believe our Author, 'tis no Monarchy, becauſe the Monarch has not his will, and perhaps he ſays true. For if that be an Ariſtocracy, where thoſe that are, or are reputed to be the beſt do govern, then that is certainly a mix'd State, in which the will of one man dos not prevail. But if Princes are not oblig'd by the Law, all that is founded upon that ſuppoſition falls to the ground: They will always follow their own humors, or the ſuggeſtions of thoſe who ſecond them. *Tiberius* hearken'd to none but *Chaldeans*, or the miniſters of his impuritys and crueltys: *Claudius* was govern'd by Slaves, and the profligate Strumpets

CHAP. III.

Strumpets his Wives. There were many wiſe and good men in the Senat during the reigns of *Caligula*, *Nero*, and *Domitian*; but inſtead of following their Counſel, they endeavour'd to deſtroy them all, leſt they ſhould head the People againſt them; and ſuch Princes as reſemble them will always follow the like courſes.

If I often repeat theſe hateful names, 'tis not for want of freſher examples of the ſame nature; but I chuſe ſuch as Mankind has univerſally condemn'd, againſt whom I can have no other cauſe of hatred than what is common to all thoſe who have any love to vertue, and which can have no other relation to the Controverſys of later Ages, than what may flow from the ſimilitude of their cauſes, rather than ſuch as are too well known to us, and which every man, according to the meaſure of his experience, may call to mind in reading theſe. I may alſo add, that as nothing is to be receiv'd as a general Maxim, which is not generally true, I need no more to overthrow ſuch as *Filmer* propoſes, than to prove how frequently they have bin found falſe, and what deſperate miſchiefs have bin brought upon the World as often as they have bin practis'd, and exceſſive Powers put into the hands of ſuch as had neither inclination nor ability to make a good uſe of them: And therefore,

1. If the ſafety of Nations be the end for which Governments are inſtituted, ſuch as take upon them to govern, by what Title ſoever, are by the Law of Nature bound to procure it; and in order to this, to preſerve the Lives, Lands, Libertys and Goods of every one of their Subjects: and he that upon any title whatſoever pretends, aſſumes, or exerciſes a power of diſpoſing of them according to his own will, violates the Laws of Nature in the higheſt degree.

2. If all Princes are oblig'd by the Law of Nature to preſerve the Lands, Goods, Lives and Libertys of their Subjects, thoſe Subjects have by the Law of Nature a right to their Libertys, Lands, Goods, *&c.* and cannot depend upon the will of any man, for that dependance deſtroys Liberty, *&c.*

3. Ill men will not, and weak men cannot provide for the ſafety of the People; nay the work is of ſuch extreme difficulty, that the greateſt and wiſeſt men that have bin in the world are not able by themſelves to perform it; and the aſſiſtance of Counſel is of no uſe, unleſs Princes are oblig'd to follow it. There muſt be therefore a power in every State to reſtrain the ill, and to inſtruct weak Princes by obliging them to follow the Counſels given, elſe the ends of Government cannot be accompliſh'd, nor the rights of Nations preſerv'd.

All this being no more than what is ſaid by our Author, or neceſſarily to be deduc'd from his Propoſitions, one would think he were become as good a Commonwealths-man as *Cato*; but the waſh'd Swine will return to the Mire. He overthrows all by a prepoſterous conjunction of the rights of Kings which are juſt and by Law, with thoſe of Tyrants which are utterly againſt Law; and gives the ſacred and gentle name of Father to thoſe Beaſts, who by their actions declare themſelves enemys not only to all Law and Juſtice, but to Mankind that cannot ſubſiſt without them. This requires no other proof, than to examin whether *Attila* or *Tamerlan* did well deſerve to be call'd Fathers of the Countrys they deſtroy'd. The firſt of theſe was uſually call'd the ſcourge of God, and he glory'd in the Name. The other being reprov'd for the deteſtable crueltys he exercis'd, made anſwer, *You ſpeak to me as to a man; I am not a man, but the ſcourge of God and plague of Mankind.* This is certainly ſweet and

Vit. Tamerlan. Hiſt. Thuan.

gentle

gentle Language, ſavouring much of a fatherly tenderneſs: There is no doubt that thoſe who uſe it will provide for the ſafety of the Nations under them, and the preſervation of the Laws of Nature is rightly refer'd to them; and 'tis alſo very probable, that they who come to burn the Countrys, and deſtroy the Nations that fall under their power, ſhould make it their buſineſs to preſerve them, and look upon the former Governors *as their Fathers, whoſe Acts they are oblig'd to confirm*, tho they ſeldom attain to the Dominion by any other means than the ſlaughter of them and their Familys. SECT. 16.

But if the enmity be not againſt the Nation, and the cauſe of the war be only for Dominion againſt the ruling Perſon or Family, as that of *Baaſha* againſt the houſe of *Jeroboam*, of *Zimri* againſt that of *Baaſha*, of *Omri* againſt *Zimri*, and of *Jehu* againſt *Joram*, the proſecution of it is a ſtrange way of becoming the Son of the Perſon deſtroy'd. And *Filmer* alone is ſubtil enough to diſcover, that *Jehu* by extinguiſhing the houſe of *Ahab*, drew an obligation upon himſelf, of looking on him as his Father, and confirming his acts. If this be true, *Moſes* was oblig'd to confirm the acts of the Kings of the *Amalekites*, *Moabites* and *Amorites* that he deſtroy'd; the ſame duty lay upon *Joſhua*, in relation to the *Canaanites*: but 'tis not ſo eaſily decided, to which of them he did owe that deference; for the ſame could not be due to all, and 'tis hard to believe, that by killing above thirty Kings, he ſhould purchaſe to himſelf ſo many Fathers; and the like may be ſaid of divers others.

Moreover, there is a ſort of Tyrant who has no Father, as *Agathocles*, *Dionyſius*, *Ceſar*, and generally all thoſe who ſubvert the Libertys of their own Country. And if they ſtood oblig'd to look upon the former Magiſtrats as their Predeceſſors, and to confirm their Acts, the firſt ſhould have bin to give impunity and reward to any that would kill them, it having bin a fundamental Maxim in thoſe States, * *That any man might kill a Tyrant.*

This being in all reſpects ridiculous and abſurd, 'tis evident that our Author, who by propoſing ſuch a falſe ſecurity to Nations for their Libertys, endeavours to betray them, is not leſs treacherous to Kings, when under a pretence of defending their Rights, he makes them to be the ſame with thoſe of Tyrants, who are known to have none (and are Tyrants becauſe they have none) and gives no other hopes to Nations of being preſerv'd by the Kings they ſet up for that end, than what upon the ſame account may be expected from Tyrants, whom all wiſe men have ever abhor'd, and affirm'd to have bin *produc'd* † *to bring deſtruction upon the World*, and whoſe Lives have verify'd the Sentence.

This is truly to depoſe and aboliſh Kings, by aboliſhing that by which and for which they are ſo. The greatneſs of their Power, Riches, State, and the pleaſures that accompany them cannot but create enemys. Some will envy that which is accounted Happineſs; others may diſlike the uſe they make of their Power: ſome may be unjuſtly exaſperated by the beſt of their Actions when they find themſelves incommoded by them; others may be too ſevere judges of ſlight miſcarriages. Theſe things may reaſonably temper the joys of thoſe who delight moſt in the advantages of Crowns. But the worſt and moſt dangerous of all their enemys are theſe accurſed Sycophants, who, by making thoſe that ought to be the beſt of men, like to the worſt, deſtroy their Being; and by perſuading the world they aim at the ſame things, and are bound to no other rule than is common to all Tyrants, give a fair pretence to ill men to ſay, They are all of

* Unicuiq; licere Tyrannum occidere. † In generis humani exitium natos.

one kind. And if this ſhould be receiv'd for truth, even they who think the miſcarriages of their Governors may be eaſily redreſt, and deſire no more, would be the moſt fierce in procuring the deſtruction of that which is naught in Principle, and cannot be corrected.

SECT. XVII.

Kings cannot be the Interpreters of the Oaths they take.

OUR Author's Book is ſo full of abſurditys and contradictions, that it would be a rope of Sand, if a continu'd ſeries of frauds did not, like a ſtring of Poiſons running thro the whole, give it ſome conſiſtence with it ſelf, and ſhew it to be the work of one and the ſame hand. After having endeavour'd to ſubvert the Laws of God, Nature and Nations, moſt eſpecially our own, by abuſing the Scriptures, falſly alledging the Authority of many good Writers, and ſeeking to obtrude upon Mankind a univerſal Law, that would take from every Nation the right of conſtituting ſuch Governments within themſelves as ſeem moſt convenient for them, and giving rules for the adminiſtration of ſuch as they had eſtabliſh'd, he gives us a full view of his Religion and Morals, by deſtroying the force of the Oath taken by our Kings at their Coronation. *Others*, ſays he, *affirm, that altho Laws of themſelves do not bind Kings, yet the Oaths of Kings at their Coronation ty them to keep all the Laws of their Kingdoms. How far this is true, let us but examin the Oath of the Kings of* England *at their Coronation, the words whereof are theſe. Art thou pleas'd to cauſe to be adminiſter'd in all thy judgments, indifferent and upright Juſtice, and to uſe diſcretion with Mercy and Verity? Art thou pleas'd that our upright Laws and Cuſtoms be obſerv'd, and doſt thou promiſe that thoſe ſhall be protected and maintain'd by thee?* &c. To which the King *anſwers in the Affirmative, being firſt demanded by the Archbiſhop of* Canterbury, *Pleaſeth it you to confirm and obſerve the Laws and Cuſtoms of the antient times, granted from God by juſt and devout Kings unto the Engliſh Nation, by Oath unto the ſaid People, eſpecially the Laws, Libertys and Cuſtoms granted unto the Clergy and Laity by the famous King* Edward? From this he infers, That the King *is not to obſerve all Laws, but ſuch as are upright, becauſe he finds evil Laws mention'd in the Oath of* Richard *the* 2d, *which he ſwears to aboliſh: Now what Laws are upright and what evil, who ſhall judg but the King?* &c. *So that in effect the King doth ſwear to keep no Laws but ſuch as in his judgment are upright*, &c. *And if he did ſtrictly ſwear to obſerve all Laws, he could not without Perjury give his conſent to the repealing or abrogating of any Statute by Act of Parliament*, &c. And again, *But let it be ſuppos'd for Truth, that Kings do ſwear to obſerve all Laws of their Kingdoms; yet no man can think it reaſon, that the Kings ſhould be more bound by their voluntary Oaths than common Perſons: Now if a private Perſon make a Contract, either with Oath or without Oath, he is no farther bound than the equity and juſtice of the Contract tys him; for a man may have relief againſt an unreaſonable and unjuſt Promiſe, if either deceit or error, force or fear induc'd him thereunto; or if it be hurtful or grievous in the performance, ſince the Law in many caſes gives the King a Prerogative above common perſons.* Leſt I ſhould be thought to inſiſt upon ſmall advantages, I will not oblige any man to ſhew where *Filmer* found this Oath, nor obſerve the faults committed in the Tranſlation; but notwithſtanding his falſe repreſentation, I find enough for my purpoſe, and intend to take it in his own words.

But

But firſt I ſhall take leave to remark, that thoſe who for private intereſts addict themſelves to the perſonal ſervice of Princes, tho to the ruin of their Country, find it impoſſible to perſuade Mankind that Kings may govern as they pleaſe, when all men know there are Laws to direct and reſtrain them, unleſs they can make men believe they have their power from a univerſal and ſuperior Law; or that Princes can attempt to diſſolve the obligations laid upon them by the Laws, which they ſo ſolemnly ſwear to obſerve, without rendring themſelves deteſtable to God and Man, and ſubject to the revenging hands of both, unleſs they can invalidate thoſe Oaths. Mr. *Hobbes* I think was the firſt, who very ingeniouſly contriv'd a compendious way of juſtifying the moſt abominable Perjurys, and all the miſchiefs enſuing thereupon, by pretending, that as the King's Oath is made to the People, the People may abſolve him from the obligation; and that the People having confer'd upon him all the Power they had, he can do all that they could: he can therefore abſolve himſelf, and is actually free, ſince he is ſo when he pleaſes. This is only falſe in the minor: for the People not having confer'd upon him all, but only a part of their Power, that of abſolving him remains in themſelves, otherwiſe they would never have oblig'd him to take the Oath. He cannot therefore abſolve himſelf. The Pope indeed finds a help for this, and as Chriſt's Vicar pretends the power of Abſolution to be in him, and exercis'd it in abſolving K. *John*. But our Author deſpairing to impoſe either of theſe upon our Age and Nation, with more impudence and leſs wit, would enervate all Coronation-Oaths by ſubjecting them to the diſcretion of the taker; whereas all men have hitherto thought their force to conſiſt in the declar'd ſenſe of thoſe who give them. This doctrin is ſo new, that it ſurpaſſes the ſubtilty of the Schoolmen, who, as an ingenious Perſon ſaid of 'em, had minc'd Oaths ſo fine, that a million of 'em, as well as Angels, may ſtand upon the point of a needle; and were never yet equal'd but by the Jeſuits, who have overthrown them by mental reſervations; which is ſo clearly demonſtrated from their books, that it cannot be deny'd, but ſo horrible, that even thoſe of their own Order who have the leaſt ſpark of common honeſty condemn the practice. And one of them, being a Gentleman of a good family, told me, he would go the next day and take all the Oaths that ſhould be offer'd, if he could ſatisfy his conſcience in uſing any manner of equivocation or mental reſervation, that he might put any other ſenſe upon them, than he knew to be intended by thoſe who offer'd them. And if our Author's conſcience were not more corrupted than that of the Jeſuit, who had liv'd fifty years under the worſt Diſciplin that I think ever was in the world, I would ask him ſeriouſly, if he truly believe, that the Nobility, Clergy and Commonalty of *England*, who have bin always ſo zealous for their antient Laws, and ſo reſolute in defending 'em, did mean no more by the Oaths they ſo ſolemnly impos'd, and upon which they laid ſo much weight, than that the King ſhould ſwear to keep 'em, ſo far only as he ſhould think fit.

SECT. 17.

Lib. de Cive.

But *he ſwears only to obſerve thoſe that are upright*, &c. How can that be underſtood otherwiſe than that thoſe who give the Oath, do declare their Laws and Cuſtoms to be upright and good, and he by taking the Oath affirms them to be ſo? Or how can they be more preciſely ſpecify'd than by the enſuing Clauſe, *Granted from God by juſt and devout Kings by Oath, eſpecially thoſe of the famous King* Edward? But, ſays he, by the ſame Oath *Richard the* 2d *was bound to aboliſh thoſe that were evil.* If any ſuch had crept in thro error, or bin obtruded by malice, the evil being diſcover'd

CHAP. III. cover'd and declar'd by the Nobility and Commons who were concern'd, he was not to take advantage of them, or by his refuſal to evade the abolition, but to join with his people in annulling them, according to the general Clauſe of aſſenting to thoſe *Quas vulgus elegerit.*

Magna Charta being only an abridgment of our antient Laws and Cuſtoms, the King that ſwears to it, ſwears to them all; and not being admitted to be the interpreter of it, or to determin what is good or evil, fit to be obſerv'd or annul'd in it, can have no more power over the reſt. This having bin confirm'd by more Parliaments than we have had Kings ſince that time, the ſame obligation muſt ſtill lie upon them all, as upon *John* and *Henry*, in whoſe time that claim of right was compil'd. The Act was no leſs ſolemn than important; and the moſt dreadful curſes that could be conceiv'd in words, which were denounc'd againſt ſuch as ſhould any way infringe it, by the Clergy in *Weſtminſter-Hall*, in the preſence and with the aſſent of K. *Henry* III. many of the principal Nobility, and all the Eſtates of the Kingdom, ſhew whether it was refer'd to the King's Judgment or not; when 'tis evident they fear'd the violation from no other than himſelf, and ſuch as he ſhould employ. I confeſs the Church (as they then call'd the Clergy) was fallen into ſuch corruption, that their Arms were not much to be fear'd by one who had his conſcience clear; but that could not be in the caſe of perjury: and our Anceſtors could do no better, than to imploy the ſpiritual ſword, reſerving to themſelves the uſe of the other in caſe that ſhould be deſpis'd. Tho the Pope's Excommunications prov'd ſometimes to be but *bruta fulmina*, when a juſt cauſe was wanting, it may be eaſily judg'd what obedience a Prince could expect from his Subjects, when every man knew he had by perjury drawn the moſt heavy curſes upon himſelf. K. *John* was certainly wicked, but he durſt not break theſe bonds till he had procur'd the Pope's abſolution for a cover; and when he had done ſo, he found himſelf unſafe under it, and could not make good what he had promis'd to the Pope to obtain it, the Parliament declaring that his grants to the Pope were unjuſt, illegal, contrary to his Coronation-Oath, and that they would not be held by them. This went ſo far in that King's time, that Writs were iſſued out to men of all conditions to oblige themſelves by oath to keep the great Charter; and if other means fail'd, * *to compel the King to perform the conditions.* 'Tis expreſly ſaid in his Charter, † "That the Barons and Commonalty of the "land ſhall ſtraiten and compel us by all means poſſible, as by ſeiz-"ing our Towns, Lands, and Poſſeſſions, or any other way, till ſatiſ-"faction be made according to their pleaſure. And in the Charter of his Son *Henry*, 'tis, upon the ſame ſuppoſition of not performing the agreement, ſaid, ‖ "It ſhall be lawful for all men in our Kingdom to riſe up "againſt us, and to do all things that may be grievous to us, as if they "were abſolutely free from any engagements to our perſon. Theſe words ſeem to have bin contriv'd to be ſo full and ſtrong *propter duplicitatem Regis*, which was with too much reaſon ſuſpected. And 'tis not, as I ſuppoſe, the language of Slaves and Villains begging ſomething from their Lord, but of noble and free men, who knew their Lord was

* Et quod ipſum Regem per captionem diſtringerent & gravarent ad præfata exequenda.

† Et ipſi Barones cum Communitate totius terræ diſtringent & gravabunt nos modis omnibus quibus poterunt, ſcilicet per captionem caſtrorum, terrarum, poſſeſſionum, & aliis modis quibus potuerint, donec emendatum fuerit ſecundum arbitrium eorum.

‖ Licet omnibus de regno noſtro contra nos inſurgere, & omnia facere quæ gravamen noſtrum reſpiciant, ac ſi nobis in nullo tenerentur.

no more than what they made him, and had nothing but what they gave him: nor the language of a Lord treating with ſuch as enjoy'd their liberty by his favor, but with thoſe whom he acknowledg'd to be the Judges of his performing what had bin ſtipulated; and equals the agreements made between the Kings and People of *Arragon*, which I cited before from the Relations of *Antonio Perez*. This is as far as men can go; and the experience of all ages manifeſts, that Princes performing their office, and obſerving theſe Stipulations, have liv'd glorious, happy and belov'd: and I can hardly find an example of any who have notoriouſly broken theſe Oaths, and bin adjudg'd to have incur'd the Penaltys, who have not liv'd miſerably, dy'd ſhamefully, and left an abominable memory to poſterity. SECT. 17.

'But, ſays our Author, Kings cannot be more oblig'd by voluntary 'Oaths than other men, and may be reliev'd from unjuſt and unreaſonable 'promiſes, if they be induc'd by deceit, error, force or fear, or the 'performance be grievous. Which is to ſay, that no Oath is of any obligation: for there is none that is not voluntary or involuntary, and there never was any upon which ſome ſuch thing may not be pretended, which would be the ſame if ſuch as *Filmer* had the direction of their conſciences who take the Oaths, and of thoſe who are to exact the performance. This would ſoon deſtroy all confidence between King and People, and not only unhinge the beſt eſtabliſh'd Governments, but by a deteſtable practice of annihilating the force of Oaths and moſt ſolemn Contracts that can be made by men, overthrow all Societys that ſubſiſt by them. I leave it to all reaſonable men to judg how fit a work this would be for the ſupreme Magiſtrate, who is advanc'd to the higheſt degree of human glory and happineſs, that he may preſerve them; and how that Juſtice, for the obtaining of which Governments are conſtituted, can be adminiſter'd, if he who is to exact it from others, dos in his own perſon utterly ſubvert it; and what they deſerve, who by ſuch baſe prevarications would teach 'em to pervert and aboliſh the moſt ſacred of all Contracts. A worthy perſon of our Age was accuſtom'd to ſay that Contracts in writing were invented only to bind Villains, who having no Law, Juſtice or Truth within themſelves, would not keep their words, unleſs ſuch teſtimonys were given as might compel them. But if our Author's Doctrin were receiv'd, no contract would be of more value than a Cobweb. Such as are not abſolutely of a profligate conſcience, ſo far reverence the religion of an Oath, to think that even thoſe which are moſt unjuſtly and violently impos'd, ought to be obſerv'd; and *Julius Ceſar*, who I think was not over-ſcrupulous, when he was taken by Pyrats, and ſet at liberty upon his word, caus'd the Ranſom he had promis'd to be paid to them. We ſee the like is practis'd every day by Priſoners taken in unjuſt as well as juſt Wars: And there is no honeſt man that would not abhor a Perſon, who being taken by the Pyrats of *Algier* ſhould not pay what he had promis'd for his Liberty. 'Twere in vain to ſay they had no right of exacting, or that the performance was grievous; he muſt return to the chains, or pay. And tho the People of *Artois*, *Alſatia*, or *Flanders*, do perhaps with reaſon think the King of *France* has no right to impoſe Oaths of Allegiance upon them, no man doubts, that if they chuſe rather to take thoſe Oaths, than to ſuffer what might enſue upon their refuſal, they are as much bound to be faithful to him as his antient Subjects.

The like may be ſaid of promiſes extorted by fraud; and no other example is neceſſary to prove they are to be perform'd than that of *Joſhua*

CHAP. III. *ſhua* made to the *Gibeonites*. They were an accurſed Nation, which he was commanded to deſtroy: They came to him with lies, and by deceit induc'd him to make a League with them, which he ought not to have done; but being made, it was to be perform'd, and on that account he did not only ſpare but defend them, and the action was approv'd by God. When *Saul* by a prepoſterous zeal violated that League, the Anger of God for that breach of faith could no otherwiſe be appeas'd than by the death of ſeven of his Children. This caſe is ſo full, ſo preciſe, and of ſuch undoubted authority, that I ſhall not trouble my ſelf with any other. But if we believe our man of good morals, voluntary Oaths and Promiſes are of no more value than thoſe gain'd by force or deceit, that is to ſay, none are of any. For voluntary ſignifying nothing but free, all human Acts are either free or not free, that is, from the will of the perſon, or ſome impulſe from without. If therefore there be no force in thoſe that are free, nor in thoſe that are not free, there is none in any.

No better uſe can be made of any *pretenſion of error*, or that the *performance was grievous*; for no man ought to be griev'd at the performance of his Contract. *David* aſſures us, that a good man performs his agreement tho he loſe by it; and the Lord Chancellor *Egerton* told a Gentleman, who deſir'd relief againſt his own Deed, upon an Allegation that he knew not what he did when he ſign'd it, that he did not ſit to relieve fools.

But tho voluntary Promiſes or Oaths, when, to uſe the Lawyers language, there is not a valuable conſideration, were of no obligation; or that men brought by force, fear or error, into ſuch Contracts as are grievous in the performance, might be reliev'd; this would not at all reach the caſes of Princes, in the Contracts made between them and their Subjects, and confirm'd by their Oaths, there being no color of force or fraud, fear or error for them to alledg; nor any thing to be pretended that can be grievous to perform, otherwiſe than as it may be grievous to an ill man not to do the miſchiefs he had conceiv'd.

Nations according to their own will frame the Laws by which they reſolve to be govern'd; and if they do it not wiſely, the damage is only to themſelves. But 'tis hard to find an example of any People that did by force oblige a man to take upon him the Government of them. *Gideon* was indeed much preſs'd by the *Iſraelites* to be their King; and the Army of *Germanicus* in a Mutiny more fiercely urg'd him to be Emperor; but both deſiſted when their Offers were refus'd. If our Kings have bin more modeſt, and our Anceſtors more pertinacious in compelling them to accept the Crowns they offer'd, I ſhall upon proof of the matter change my opinion. But till that do appear, I may be pardon'd if I think there was no ſuch thing. *William* the *Norman* was not by force brought into *England*, but came voluntarily, and deſir'd to be King: The Nobility, Clergy, and Commons propos'd the Conditions upon which they would receive him. Theſe conditions were to govern according to their antient Laws, eſpecially thoſe that had bin granted, or rather collected in the time of the famous King *Edward*. Here was neither force nor fraud; if he had diſlik'd the terms, he might have retir'd as freely as he came. But he did like them; and tho he was not perhaps ſo modeſt, to ſay with the brave *Saxon* King *Offa*, *Ad Libertatis veſtræ tuitionem, non meis meritis, ſed ſola liberalitate veſtra unanimiter me convocaſtis*, he accepted the Crown upon the Conditions offer'd, and ſwore upon the Evangeliſts to obſerve them. Not much valuing this, he pretended to govern according to his own will; but finding the People would not endure it, he renew'd his

Addit. Mat. Par.

Oath

Oath upon the ſame Evangeliſts, and the Reliques of S. *Alban*, which he needed not to have done, but might have departed to his Dutchy of *Normandy* if he had not lik'd the conditions, or thought fit to obſerve them. 'Tis probable he examin'd the contents of *Edward*'s Laws before he * ſwore to them, and could not imagin, that a free Nation which never had any other Kings than ſuch as had bin choſen by themſelves for the preſervation of their Liberty, and from whoſe liberality the beſt of their Kings acknowledg'd the Crowns they wore, did intend to give up their Perſons, Libertys and Eſtates to him, who was a ſtranger, moſt eſpecially when they would not receive him till he had ſworn to the ſame Laws by which the others had reign'd, of which one was (as appears by the act of the *Conventus Pananglicus*) that *Reges a Sacerdotibus & ſenioribus Populi eligantur, The Kings ſhould be elected by the Clergy and Elders of the People.* By theſe means he was advanc'd to the Crown, to which he could have no title, unleſs they had the right of conferring it upon him. Here was therefore no force, deceit or error; and whatſoever equity there might be to relieve one that had bin forc'd, frighted or circumvented, it was nothing to this caſe. We do not find that *William* the 2*d*, or *Henry*, were forc'd to be Kings; no Sword was put to their Throats; and for any thing we know, the *Engliſh* Nation was not then ſo contemptible but men might have bin found in the world, who would willingly have accepted the Crown, and even their elder Brother *Robert* would not have refus'd: but the Nobility and Commons truſting to their Oaths and Promiſes, thought fit to prefer them before him; and when he endeavour'd to impoſe himſelf upon the Nation by force, they ſo ſeverely puniſh'd him, that no better proof can be requir'd to ſhew they were accuſtom'd to have no other Kings than ſuch as they approv'd. And this was one of the Cuſtoms that all their Kings ſwore to maintain, it being as antient, juſt, and well approv'd as any other. SECT. 17.

Having already prov'd, that all the Kings we have had ſince that time, have come in upon the ſame title; that the *Saxon* Laws to which all have ſworn, continue to be of force amongſt us, and that the words pronounc'd four times on the four ſides of the Scaffold by the Archbiſhop, *Will ye have this Man to reign?* do teſtify it; I may ſpare the pains of a repetition, and juſtly conclude, That if there was neither force nor fraud, fear nor error, to be pretended by the firſt, there could be none in thoſe that follow'd.

But the *obſervation of this Oath may be grievous.* If I receiv'd mony the laſt year upon Bond, Promiſe, or ſale of a Mannor or Farm, can it be thought grievous to me to be compel'd to repay, or make over the Land according to my agreement? Or if I did not ſeal the Bond till I had the mony, muſt not I perform the condition, or at the leaſt reſtore what I had receiv'd? If it be grievous to any King to preſerve the Libertys, Lives, and Eſtates of his Subjects, and to govern according to their Laws, let him reſign the Crown, and the People to whom the Oath was made, will probably releaſe him. Others may poſſibly be found who will not think it grievous: or if none will accept a Crown unleſs they may do what they pleaſe, the People muſt bear the misfortune of being oblig'd to govern themſelves, or to inſtitute ſome other ſort of Magiſtracy that will be ſatisfy'd with a leſs exorbitant Power. Perhaps they may

* Bonas & approbatas antiquas Regni Leges, quas ſancti & pii Reges ejus anteceſſores, & maxime Edvardus ſtatuit, inviolabiliter obſervare.

ſucceed

CHAP. III.

ſucceed as well as ſome others have done, who without being brought to that neceſſity, have voluntarily caſt themſelves into the miſery of living without the majeſtick ſplendor of a Monarch: or if that fail, they may as their laſt refuge, ſurrender up themſelves to Slavery. When that is done, we will acknowledg that whatſoever we have is deriv'd from the favor of our Maſter. But no ſuch thing yet appearing amongſt us, we may be pardon'd if we think we are Free-men govern'd by our own Laws, and that no man has a Power over us, which is not given and regulated by them; nor that any thing but a new Law made by our ſelves, can exempt our Kings from the obligation of performing their Oaths taken, to govern according to the old, in the true ſenſe of the words, as they are underſtood in our Language by thoſe who give them, and conducing to the ends for which they are given, which can be no other than to defend us from all manner of arbitrary Power, and to fix a rule to which we are to conform our Actions, and from which, according to our deſerts, we may expect reward or puniſhment. And thoſe who by prevarications, cavils or equivocations, endeavour to diſſolve theſe Obligations, do either maliciouſly betray the cauſe of Kings, by repreſenting them to the world as men who prefer the ſatisfaction of their irregular Appetites before the performance of their duty, and trample under foot the moſt ſacred bonds of human Society; or from the groſſeſt ignorance do not ſee, that by teaching Nations how little they can rely upon the Oaths of their Princes, they inſtruct them as little to obſerve their own; and that not only becauſe men are generally inclin'd to follow the examples of thoſe in power, but from a moſt certain concluſion, that he who breaks his part of a Contract cannot without the utmoſt impudence and folly expect the performance of the other; nothing being more known amongſt men, than that all Contracts are of ſuch mutual obligation, that he who fails of his part diſcharges the other. If this be ſo between man and man, it muſt needs be ſo between one and many millions of men: If he were free, becauſe he ſays he is, every man muſt be free alſo when he pleaſes; if a private man who receives no benefit, or perhaps prejudice from a Contract, be oblig'd to perform the conditions, much more are Kings who receive the greateſt advantages the world can give. As they are not by themſelves nor for themſelves, ſo they are not different *in ſpecie* from other men: they are born, live and die as we all do. The ſame Law of Truth and Juſtice is given to all by God and Nature; and perhaps I may ſay the performance of it is moſt rigorouſly exacted from the greateſt of men. The liberty of Perjury cannot be a privilege annex'd to Crowns; and 'tis abſurd to think that the moſt venerable Authority that can be confer'd upon a man, is increas'd by a liberty to commit, or impunity in committing ſuch crimes as are the greateſt aggravations of infamy to the baſeſt villains in the world.

SECT.

SECT. XVIII.

The next in blood to deceas'd Kings cannot generally be ſaid to be Kings till they are crown'd.

'TIS hereupon uſually objected, that Kings do not come in by Contract nor by Oath, but are Kings by, or according to proximity of Blood, before they are crown'd. Tho this be a bold Propoſition, I will not ſay 'tis univerſally falſe. 'Tis poſſible that in ſome places the rule of Succeſſion may be ſet down ſo preciſely, that in ſome caſes every man may be able to ſee and know the ſenſe, as well as the Perſon deſign'd to be the Succeſſor: but before I acknowledg it to be univerſally true, I muſt deſire to know what this rule of Succeſſion is, and from whence it draws its original.

I think I may be excus'd if I make theſe ſcruples, becauſe I find the thing in diſpute to be variouſly adjudg'd in ſeveral places, and have obſerv'd five different manners of diſpoſing Crowns eſteem'd Hereditary, beſides an infinite number of collateral Controverſys ariſing from them, of which we have divers examples; and if there be one univerſal rule appointed, one of theſe only can be right, and all the others muſt be vicious. The firſt gives the inheritance to the eldeſt Male of the eldeſt legitimate Line, as in *France*, according to that which they call the *Salique Law*. The ſecond, to the eldeſt legitimate Male of the reigning Family, as antiently in *Spain*, according to which the Brother of the deceas'd King has bin often, if not always prefer'd before the Son, if he were elder, as may appear by the diſpute between *Corbis* and *Orſua*, cited before from *Titus Livius*; and in the ſame Country during the reign of the *Goths*, the eldeſt Male ſucceeded, whether Legitimate or Illegitimate. The fourth receives Females or their Deſcendents, without any other condition diſtinguiſhing them from Males, except that the younger Brother is prefer'd before the elder Siſter, but the daughter of the elder Brother is prefer'd before the Son of the younger. The fifth gives the Inheritance to Females under a condition, as in *Sweden*, where they inherit, unleſs they marry out of the Country without the conſent of the Eſtates; according to which rule *Charles Guſtavus* was choſen, as any Stranger might have bin, tho Son to a Siſter of *Guſtavus Adolphus*, who by marrying a *German* Prince had forfeited her right. And by the ſame act of Eſtates, by which her eldeſt Son was choſen, and the Crown entail'd upon the Heirs of his Body, her ſecond Son the Prince *Adolphus* was wholly excluded.

Till theſe queſtions are decided by a Judg of ſuch undoubted Authority, that all men may ſafely ſubmit, 'tis hard for any man who really ſeeks the ſatisfaction of his Conſcience, to know whether the Law of God and Nature (tho he ſhould believe there is one general Law) do juſtify the Cuſtoms of the antient * *Medes* and *Sabeans*, mention'd by the Poet, who admitted Females, or thoſe of *France* which totally exclude them

* —— Medis levibuſq; Sabæis
Imperat hic ſexus, Reginarumq; ſub armis
Barbaries pars magna jacet. *Lucan.*

CHAP. III.

as unfit to reign over men, and utterly unable to perform the duty of a ſupreme Magiſtrate, as we ſee they are every where excluded from the exerciſe of all other Offices in the Commonwealth. If it be ſaid that we ought to follow the Cuſtoms of our own Country, I anſwer, that thoſe of our own Country deſerve to be obſerv'd, becauſe they are of our own Country: But they are no more to be call'd the Laws of God and Nature than thoſe of *France* or *Germany*; and tho I do not believe that any general Law is appointed, I wiſh I were ſure that our Cuſtoms in this point were not more repugnant to the light of Nature, and prejudicial to our ſelves, than thoſe of ſome other Nations. But if I ſhould be ſo much an *Engliſh*-man, to think the will of God to have bin more particularly reveal'd to our Anceſtors, than to any other Nation, and that all of them ought to learn from us; yet it would be difficult to decide many queſtions that may ariſe. For tho the Parliament in the *36th* of *Henry* the ſixth, made an Act in favour of *Richard* Duke of *York*, deſcended from a Daughter of *Mortimer*, who marry'd the Daughter of the Duke of *Clarence*, elder Brother to *John* of *Gaunt*, they rather aſſerted their own power of giving the Crown to whom they pleas'd, than determin'd the queſtion. For if they had believ'd that the Crown had belong'd to him by a general and eternal Law, they muſt immediately have rejected *Henry* as a Uſurper, and put *Richard* into the poſſeſſion of his Right, which they did not. And tho they did ſomething like to this in the caſes of *Maud* the Empreſs in relation to King *Stephen*, and her Son *Heury* the *2d*; and of *Henry* the *7th* in relation to the houſe of *York*, both before he had marry'd a Daughter of it, and after her death; they did the contrary in the caſes of *William* the firſt and ſecond, *Henry* the *1ſt*, *Stephen*, *John*, *Richard* the *3d*, *Henry* the *7th*, *Mary*, *Elizabeth*, and others. So that, for any thing I can yet find, 'tis equally difficult to diſcover the true ſenſe of the Law of Nature that ſhould be a guide to my Conſcience, whether I ſo far ſubmit to the Laws of my Country, to think that *England* alone has produc'd men that rightly underſtand it, or examin the Laws and Practices of other Nations.

Whilſt this remains undecided, 'tis impoſſible for me to know to whom I owe the obedience that is exacted from me. If I were a *French*-man, I could not tell whether I ow'd allegiance to the King of *Spain*, Duke of *Lorrain*, Duke of *Savoy*, or many others deſcended from Daughters of the Houſe of *Valois*, one of whom ought to inherit, if the Inheritance belongs to Females; or to the houſe of *Bourbon*, whoſe only title is founded upon the excluſion of them. The like Controverſys will be in all places; and he that would put Mankind upon ſuch inquirys, goes about to ſubvert all the Governments of the World, and arms every man to the deſtruction of his neighbor.

We ought to be inform'd when this right began: If we had the Genealogy of every man from *Noah*, and the Crowns of every Nation had ſince his time continu'd in one Line, we were only to inquire into how many Kingdoms he appointed the World to be divided, and how well the diviſion we ſee at this day agrees with the allotment made by him. But Mankind having for many ages lain under ſuch a vaſt confuſion, that no man pretends to know his own original, except ſome *Jews*, and the Princes of the houſe of *Auſtria*, we cannot ſo eaſily arrive at the end of our work; and the Scriptures making no other mention of this part of the world, than what may induce us to think it was given to the Sons of *Japhet*, we have nothing that can lead us to gueſs how it was to be ſubdi-

vided,

vided, nor to whom the ſeveral parcels were given: So that the difficultys are abſolutely inextricable; and tho it were true, that ſome one man had a right to every parcel that is known to us, it could be of no uſe; for that Right muſt neceſſarily periſh which no man can prove, nor indeed claim. But as all natural Rights by Inheritance muſt be by Deſcent, this Deſcent not being prov'd, there can be no natural Right; and all Rights being either natural, created or acquir'd, this Right to Crowns not being natural, muſt be created or acquir'd, or none at all. SECT. 17.

There being no general Law common to all Nations, creating a Right to Crowns (as has bin prov'd by the ſeveral methods us'd by ſeveral Nations in the diſpoſal of them, according to which all thoſe that we know are enjoy'd) we muſt ſeek the Right concerning which we diſpute, from the particular Conſtitutions of every Nation, or we ſhall be able to find none.

Acquir'd Rights are obtain'd, as men ſay, either by fair means or by foul, that is, by force or by conſent: ſuch as are gain'd by force, may be recover'd by force; and the extent of thoſe that are enjoy'd by conſent, can only be known by the reaſons for which, or the conditions upon which that conſent was obtain'd, that is to ſay, by the Laws of every People. According to theſe Laws it cannot be ſaid that there is a King in every Nation before he is crown'd. *John Sobietski* now reigning in *Poland*, had no relation in blood to the former Kings, nor any title till he was choſen. The laſt King of *Sweden* acknowledg'd he had none, but was freely elected; and the Crown being confer'd upon him and the Heirs of his Body, if the preſent King dies without Iſſue, the right of electing a Succeſſor returns undoubtedly to the Eſtates of the Country. The Crown of *Denmark* was Elective till it was made Hereditary by an Act of the General Diet held at *Copenhagen* in the year 1660; and 'tis impoſſible that a Right ſhould otherwiſe accrue to a younger Brother of the houſe of *Holſtein*, which is deriv'd from a younger Brother of the Counts of *Oldenburgh*. The *Roman* Empire having paſs'd thro the hands of many Perſons of different Nations, no way relating to each other in blood, was by *Conſtantine* transfer'd to *Conſtantinople*; and after many Revolutions coming to *Theodoſius*, by birth a *Spaniard*, was divided between his two Sons *Arcadius* and *Honorius*. From thence paſſing to ſuch as could gain moſt credit with the Soldiers, the Weſtern Empire being brought almoſt to nothing, was reſtor'd by *Charles* the Great of *France*; and continuing for ſome time in his deſcendents, came to the *Germans*; who having created ſeveral Emperors of the Houſes of *Suevia*, *Saxony*, *Bavaria* and others, as they pleas'd, about three hundred years paſt choſe *Rodolphus* of *Auſtria*: and tho ſince that time they have not had any Emperor who was not of that Family; yet ſuch as were choſen had nothing to recommend them, but the merits of their Anceſtors, their own perſonal Vertues, or ſuch political conſiderations as might ariſe from the power of their hereditary Countrys, which being join'd with thoſe of the Empire, might enable 'em to make the better defence againſt the *Turks*. But in this Line alſo they have had little regard to inheritance according to blood; for the elder branch of the Family is that which reigns in *Spain*; and the Empire continues in the deſcendents of *Ferdinand* younger Brother to *Charles* the fifth, tho ſo unfix'd even to this time, that the preſent Emperor *Leopold* was in great danger of being rejected.

If it be ſaid that theſe are elective Kingdoms, and our Author ſpeaks of ſuch as are hereditary; I anſwer, that if what he ſays be true, there

CHAP. III. can be no Elective Kingdom, and every Nation has a natural Lord to whom obedience is due. But if ſome are Elective, all might have bin ſo if they had pleas'd, unleſs it can be prov'd, that God created ſome under a neceſſity of ſubjection, and left to others the enjoyment of their liberty. If this be ſo, the Nations born under that neceſſity may be ſaid to have a natural Lord, who has all the power in himſelf, before he is crown'd, or any part confer'd on him by the conſent of the people; but it cannot extend to others. And he who pretends a right over any Nation upon that account, ſtands oblig'd to ſhew when and how that Nation came to be diſcriminated by God from others, and depriv'd of that liberty which he in goodneſs had granted to the reſt of mankind. I confeſs I think there is no ſuch Right, and need no better proof than the various ways of diſpoſing Inheritances in ſeveral Countrys, which not being naturally or univerſally better or worſe one than another, cannot ſpring from any other root, than the conſent of the ſeveral Nations where they are in force, and their opinions that ſuch methods were beſt for them. But if God has made a diſcrimination of people, he that would thereupon ground a Title to the dominion of any one, muſt prove that Nation to be under the curſe of Slavery, which for any thing I know, was only denounc'd againſt *Cham*: and 'tis as hard to determin whether the ſenſe of it be temporal, ſpiritual, or both, as to tell preciſely what Nations by being deſcended from him, fall under the Penaltys threaten'd.

If theſe therefore be either intirely falſe, or impoſſible to be prov'd true, there is no diſcrimination, or not known to us; and every People has a right of diſpoſing of their Government, as well as the *Polanders*, *Danes*, *Swedes*, *Germans*, and ſuch as are or were under the *Roman* Empire. And if any Nation has a natural Lord before he be admitted by their conſent, it muſt be by a peculiar act of their own; as the Crown of *France* by an act of that Nation, which they call the Salique Law, is made hereditary to Males in a direct Line, or the neareſt to the direct; and others in other places are otherwiſe diſpos'd.

I might reſt here with full aſſurance that no Diſciple of *Filmer* can prove this of any people in the world, nor give ſo much as the ſhadow of a reaſon to perſuade us there is any ſuch thing in any Nation, or at leaſt in thoſe where we are concern'd; and preſume little regard will be had to what he has ſaid, ſince he cannot prove of any that which he ſo boldly affirms of all. But becauſe good men ought to have no other object than Truth, which in matters of this importance can never be made too evident, I will venture to go farther, and aſſert, That as the various ways by which ſeveral Nations diſpoſe of the ſucceſſion to their reſpective Crowns, ſhew they were ſubject to no other Law than their own, which they might have made different, by the ſame right they made it to be what it is, even thoſe who have the greateſt veneration for the reigning Familys, and the higheſt regard for proximity of blood, have always prefer'd the ſafety of the Commonwealth before the concernments of any Perſon or Family, and have laid aſide the neareſt in blood, not only when they were found to be notoriouſly vicious and wicked, but when they have thought it more convenient to take others: And to prove this I intend to make uſe of no other Examples than thoſe I find in the Hiſtorys of *Spain*, *France* and *England*.

Whilſt the *Goths* govern'd *Spain*, not above four perſons in the ſpace of three hundred years were the immediate ſucceſſors of their Fathers, but the Brother, Couſin German, or ſome other man of the Familys of the

Balthei

Balthei or *Amalthei* was preſer'd before the Children of the deceas'd King: and if it be ſaid, this was according to the Law of that Kingdom, I anſwer, that it was therefore in the power of that Nation to make Laws for themſelves, and conſequently others have the ſame right. One of their Kings call'd *Wamba* was depos'd and made a Monk after he had reign'd well many years; but falling into a ſwound, and his friends thinking him paſt recovery, cut off his hair, and put a Monk's Frock upon him, that, according to the ſuperſtition of thoſe times, he might die in it; and the cutting off the hair being a moſt diſgraceful thing amongſt the *Goths*, they would not reſtore him to his Authority. *Suintila* another of their Kings being depriv'd of the Crown for his ill Government, his Children and Brothers were excluded, and *Siſinandus* crown'd in his room. SECT. 17. Saavedra Coron. Goth. Mar. Hiſt. l. 6. Saavedra Coron. Goth.

This Kingdom being not long after overthrown by the *Moors*, a new one aroſe from its aſhes in the perſon of *Don Pelayo* firſt King of the *Aſturia*'s, which increaſing by degrees at laſt came to comprehend all *Spain*, and ſo continues to this day: But not troubling my ſelf with all the deviations from the common rule in the collateral Lines of *Navarr*, *Arragon* and *Portugal*, I find that by fifteen ſeveral Inſtances in that one ſeries of Kings in the *Aſturia*'s and *Leon* (who afterwards came to be Kings of *Caſtille*) it is fully prov'd, that what reſpect ſoever they ſhew'd to the next in blood, who by the Law were to ſucceed, they prefer'd ſome other perſon, as often as the ſupreme Law of *taking care that the Nation might receive no detriment*, perſuaded them to it.

Don Pelayo enjoy'd for his life the Kingdom confer'd upon him by the *Spaniards*, who with him retir'd into the Mountains to defend themſelves againſt the *Moors*, and was ſucceeded by his Son *Favila*. But tho *Favila* left many Sons when he dy'd, *Alphonſo* ſirnam'd the Chaſt was advanc'd to the Crown, and they all laid aſide. *Fruela* Son to *Alphonſo* the Catholick, was for his cruelty depos'd, put to death, and his Sons excluded. *Aurelio* his Couſin German ſucceeded him; and at his death *Silo*, who marry'd his Wife's Siſter, was prefer'd before the Males of the Blood Royal. *Alphonſo*, ſirnam'd *El Caſto*, was firſt violently diſpoſſeſt of the Crown by a Baſtard of the Royal Family; but he being dead, the Nobility and People thinking *Alphonſo* more fit to be a Monk than a King, gave the Crown to *Bermudo* call'd *El Diacono*; but *Bermudo* after ſeveral years reſigning the Kingdom, they conceiv'd a better opinion of *Alphonſo*, and made him King. *Alphonſo* dying without iſſue, *Don Ramiro* Son to *Bermudo* was prefer'd before the Nephews of *Alphonſo*. *Don Ordonno*, fourth from *Ramiro*, left four legitimate Sons; but they being young, the Eſtates laid them aſide, and made his Brother *Fruela* King. *Fruela* had many Children, but the ſame Eſtates gave the Crown to *Alphonſo* the Fourth, who was his Nephew. *Alphonſo* turning Monk, recommended his Son *Ordonno* to the Eſtates of the Kingdom; but they refus'd him, and made his Brother *Ramiro* King. *Ordonno* third Son to *Ramiro* dying, left a Son call'd *Bermudo*; but the Eſtates took his Brother *Sancho*, and advanc'd him to the throne. *Henry* the Firſt being accidentally kill'd in his youth, left only two Siſters, *Blanche* marry'd to *Lewis* Son to *Philip Auguſt* King of *France*, and *Berenguela* marry'd to *Alphonſo* King of *Leon*. The Eſtates made *Ferdinand*, Son of *Berenguela* the youngeſt Siſter, King, excluding *Blanche*, with her Husband and Children for being Strangers, and *Berenguela* her ſelf, becauſe they thought not fit that her Husband ſhould have any part in the Government. *Alphonſo El Savio* Mariana l. 13. Marian. l. 12. c. 7.

ſeems

CHAP. III. ſeems to have bin a very good Prince; but applying himſelf more to the ſtudy of Aſtrology than to affairs of Government (his eldeſt Son *Ferdinand de la Cerda* dying, and leaving his Sons *Alphonſo* and *Ferdinand* very young) the Nobility, Clergy and People depos'd him, excluded his Granchildren, and gave the Crown to *Don Sancho* his younger Son, ſirnam'd *El Bravo*, thinking him more fit to command them againſt the *Moors*, than an old Aſtrologer, or a Child. *Alphonſo* and *Sancho* being dead, *Alphonſo el Deſheredado* laid claim to the Crown, but it was given to *Ferdinand* the Fourth, and *Alphonſo* with his deſcendents the Dukes *de Medina Celi* remain excluded to this day. *Peter* ſirnam'd the Cruel was twice driven out of the Kingdom, and at laſt kill'd by *Bertrand de Gueſclin* Conſtable of *France*, or *Henry* Count of *Traſtamara* his Baſtard-Brother, who was made King without any regard to the Daughters of *Peter*, or to the Houſe of *La Cerda*. *Henry* the Fourth left a Daughter call'd *Joan*, whom he declar'd his Heir; but the Eſtates gave the Kingdom to *Iſabel* his Siſter, and crown'd her with *Ferdinand* of *Arragon* her Husband. *Joan* Daughter to this *Ferdinand* and *Iſabel* falling mad, the Eſtates committed the care of the Governnent to her Father *Ferdinand*, and after his death to her Son.

Marian. l. 24.

But the *French* have taught us, that when a King dies, his next Heir is really King before he take his Oath, or be crown'd. From them we learn that *Le mort ſaiſit le vif*. And yet I know no Hiſtory that proves more plainly than theirs, that there neither is nor can be in any man, a right to the Government of a People, which dos not receive its being, manner and meaſure from the Law of the Country; which I hope to juſtify by four Reaſons.

1. When a King of *Pharamond*'s Race dy'd, the Kingdom was divided into as many parcels as he had Sons; which could not have bin, if one certain Heir had bin aſſign'd by nature, for he ought to have had the whole: and if the Kingdom might be divided, they who inhabited the ſeveral parcels, could not know to whom they ow'd obedience, till the diviſion was made, unleſs he who was to be King of *Paris*, *Metz*, *Soiſſons* or *Orleans*, had worn the Name of his Kingdom upon his forehead. But in truth, if there might be a diviſion, the Doctrin is falſe, and there was no Lord of the whole. This wound will not be heal'd, by ſaying, The Father appointed the diviſion, and that by the Law of nature every man may diſpoſe of his own as he thinks fit; for we ſhall ſoon prove that the Kingdom of *France* neither was, nor is diſpoſable as a Patrimony or Chattel. Beſides, if that Act of Kings had bin then grounded upon the Law of nature, they might do the like at this day. But the Law, by which ſuch Diviſions were made, having bin abrogated by the Aſſembly of Eſtates in the time of *Hugh Capet*, and never practis'd ſince, it follows that they were grounded upon a temporary Law, and not upon the Law of Nature which is eternal. If this were not ſo, the pretended certainty could not be; for no man could know to whom the laſt King had bequeath'd the whole Kingdom, or parcels of it, till the Will were open'd; and that muſt be done before ſuch Witneſſes as may deſerve credit in a matter of this importance, and are able to judg whether the Bequeſt be rightly made; for otherwiſe no man could know, whether the Kingdom was to have one Lord or many, nor who he or they were to be; which intermiſſion muſt neceſſarily ſubvert their Polity, and this Doctrin. But the truth is, the moſt Monarchical men among them are ſo far from acknowledging any ſuch right to be in the King, of alienating, bequeath-

Hiſt. de Fr. en la Vie de Hugues Capet.

ing

ing or dividing the Kingdom, that they do not allow him the right of making a Will; and that of the laſt King *Lewis* the 13*th* touching the Regency during the minority of his Son was of no effect. SECT. 18.

Mem. du Duc de la Rochefocault.

2. This matter was made more clear under the ſecond race. If a Lord had bin aſſign'd to them by nature, he muſt have bin of the Royal Family: But *Pepin* had no other Title to the Crown, except the merits of his Father, and his own, approv'd by the Nobility and People who made him King. He had three ſons, the eldeſt was made King of *Italy*, and dying before him left a Son call'd *Bernard* Heir of that Kingdom. The Eſtates of *France* divided what remain'd between *Charles* the Great and *Carloman*, The laſt of theſe dying in a few years, left many Sons, but the Nobility made *Charles* King of all *France*, and he diſpoſſeſt *Bernard* of the Kingdom of *Italy* inherited from his Father: ſo that he alſo was not King of the whole, before the expulſion of *Bernard* the Son of his elder Brother; nor of *Aquitain*, which by inheritance ſhould have belong'd to the Children of his younger Brother, any otherwiſe than by the will of the Eſtates. *Lewis* the *Debonair* ſucceeded upon the ſame title, was depos'd and put into a Monaſtery by his three Sons *Lothair*, *Pepin* and *Lewis*, whom he had by his firſt Wife. But tho theſe left many Sons, the Kingdom came to *Charles* the Bald. The Nobility and People diſliking the eldeſt Son of *Charles*, gave the Kingdom to *Lewis le Begue*, who had a legitimate Son called *Charles le Simple*; but his two Baſtards, *Lewis* and *Carloman*, were made Kings. *Carloman* had a Son call'd *Lewis le faineant*; he was made King, but afterwards depos'd for his vicious Life. *Charles le Groſs* ſucceeded him, but for his ill Government was alſo depos'd; and *Odo*, who was a ſtranger to the Royal Blood, was made King. The ſame Nobility that had made five Kings ſince *Lewis le Begue*, now made *Charles le Simple* King, who according to his name was entrap'd at *Peronne* by *Ralph* Duke of *Burgundy*, and forc'd to reſign his Crown, leaving only a Son call'd *Lewis*, who fled into *England*. *Ralph* being dead, they took *Lewis* ſirnam'd *Outremer*, and plac'd him in the Throne: he had two Sons, *Lothair* and *Charles*. *Lothair* ſucceeded him, and dy'd without Iſſue. *Charles* had as fair a title as could be by Birth, and the Eſtates confeſt it; but their Embaſſadors told him, that he having by an unworthy Life render'd himſelf unworthy of the Crown, they, whoſe principal care was to have a good Prince at the head of them, had choſen *Hugh Capet*; and the Crown continues in his race to this day, tho not altogether without interruption. *Robert* Son to *Hugh Capet* ſucceeded him. He left two Sons *Robert* and *Henry*; but *Henry* the younger Son appearing to the Eſtates of the Kingdom to be more fit to reign than his elder Brother, they made him King, *Robert* and his deſcendents continuing Dukes of *Burgundy* only for about ten Generations; at which time his Iſſue Male failing, that Dutchy return'd to the Crown during the Life of King *John*, who gave it to his ſecond Son *Philip* for an *Apannage* ſtill depending upon the Crown. The ſame Province of *Burgundy* was by the Treaty of *Madrid* granted to the Emperor *Charles* the fifth by *Francis* the firſt: but the People refus'd to be alienated, and the Eſtates of the Kingdom approv'd their refuſal. By the ſame Authority *Charles* the *6th* was remov'd from the Government, when he appear'd to be mad; and other examples of a like nature may be alledg'd. From which we may ſafely conclude, that if the death of one King dos really inveſt the next Heir with the Right and Power, or that he who is ſo inveſted, be ſubject to no Law but his own Will, all matters relating

Paul. Æmil. Hiſt. Franc.

to

CHAP. III.

to that Kingdom muſt have bin horribly confus'd during the reigns of twenty two Kings of *Pharamond*'s race; they can have had no rightful King from the death of *Chilperic* to King *John*: and the Succeſſion ſince that time is very liable to be queſtion'd, if not utterly overthrown by the houſe of *Auſtria*, who by the Counts of *Hapsburg* derive their Deſcent from *Pharamond*, and by the houſe of *Lorrain* claiming from *Charles*, who was excluded by *Capet*: All which is moſt abſurd, and they who pretend it, bring as much confuſion into their own Laws, and upon the Polity of their own Nation, as ſhame and guilt upon the memory of their Anceſtors, who by the moſt extreme injuſtice have rejected their natural Lord, or diſpoſſeſt thoſe who had bin in the moſt ſolemn manner plac'd in the Government, and to whom they had generally ſworn Allegiance.

3. If the next Heir be actually King, ſeiz'd of the power by the death of his Predeceſſor, ſo that there is no intermiſſion; then all the Solemnitys and religious Ceremonys us'd at the Coronations of their Kings, with the Oaths given and taken, are the moſt profane abuſes of ſacred things in contempt of God and Man that can be imagin'd, moſt eſpecially if the Act be (as our Author calls it) voluntary, and the King receiving nothing by it, be bound to keep it no longer than he pleaſes. The Prince who is to be ſworn, might ſpare the pains of watching all night in the Church, faſting, praying, confeſſing, communicating, and ſwearing, *that he will to the utmoſt of his power defend the Clergy, maintain the union of the Church, obviate all exceſs, rapine, extortion and iniquity; take care that in all judgments Juſtice may be obſerv'd, with Equity and Mercy*, &c. *or of invoking the aſſiſtance of the Holy Ghoſt for the better performance of his Oath*; and without ceremony tell the Nobility and People, that he would do what he thought fit. 'Twere to as little purpoſe for the Archbiſhop of *Rheims* to take the trouble of ſaying Maſs, delivering to him the Crown, Scepter, and other enſigns of Royalty, explaining what is ſignify'd by them, anointing him with the Oil which they ſay was deliver'd by an Angel to St. *Remigius*, bleſſing him, and praying to God to bleſs him if he rightly perform'd his Oath to God and the People, and denouncing the contrary in caſe of failure on his part, if theſe things conferr'd nothing upon him but what he had before, and were of no obligation to him. Such ludifications of the moſt ſacred things are too odious and impious to be imputed to Nations that have any vertue, or profeſs Chriſtianity. This cannot fall upon the *French* and *Spaniards*, who had certainly a great zeal to Religion, whatever it was; and were ſo eminent for moral Vertues as to be a reproach to us, who live in an Age of more Knowledg. But their meaning is ſo well declar'd by their moſt ſolemn Acts, that none but thoſe who are wilfully ignorant can miſtake. One of the Councils held at *Toledo*, declar'd by the Clergy, Nobility, and others aſſiſting, *That no man ſhould be plac'd in the Royal Seat till he had ſworn to preſerve the Church*, &c. Another held in the ſame place, ſignify'd to *Siſinandus*, who was then newly crown'd, *That if he, or any of his Succeſſors ſhould, contrary to their Oaths, and the Laws of their Country, proudly and cruelly preſume to exerciſe Domination over them, he ſhould be excommunicated, and ſeparated from Chriſt and them to eternal judgment.* The *French* Laws, and their beſt Writers aſſerting the ſame things, are confirm'd by perpetual practice. *Henry* of *Navarre*, tho certainly according to their Rules, and in their eſteem a moſt accompliſh'd Prince, was by two General Aſſemblys of the Eſtates held at *Blois*, depriv'd of the Succeſſion for being a Proteſtant; and notwithſtanding the greatneſs

Concil. Tolet. 6.

Concil. Tolet. 4.

Hiſt. Thuan.

of his Reputation, Valor, Victorys, and Affability, could never be admitted, till he had made himſelf capable of the ceremonys of his Coronation, by conforming to the Religion which by the Oath he was to defend. Nay this preſent King, tho haughty enough by nature, and elevated by many ſucceſſes, has acknowledg'd, as he ſays, with joy, that he can do nothing contrary to Law, and calls it a happy impotence; in purſuance of which he has annul'd many Acts of his Father and Grandfather, alienating the demeaſnes of the Crown, as things contrary to Law, and not within their power. SECT. 18.

Theſe things being confirm'd by all the good Authors of that Nation, *Filmer* finds only the worſt to be fit for his turn; and neither minding Law nor Hiſtory, takes his Maxims from a vile flattering diſcourſe of *Bellay*, calculated for the perſonal Intereſt of *Henry* the fourth then King of *Navarr*, in which he ſays, *That the Heir apparent, tho furious, mad, a fool, vicious, and in all reſpects abominably wicked, muſt be admitted to the Crown.* But *Bellay* was ſo far from attaining the ends deſign'd by his Book, that by ſuch Doctrins, which fill'd all men with horror, he brought great prejudice to his Maſter, and procur'd little favor from *Henry*, who deſir'd rather to recommend himſelf to his People as the beſt man they could ſet up, than to impoſe a neceſſity upon 'em of taking him if he had bin the worſt. But our Author, not contented with what this Sycophant ſays, in relation to ſuch Princes as are plac'd in the Government by a Law eſtabliſhing the Succeſſion by inheritance, with an impudence peculiar to himſelf, aſſerts the ſame right to be in any man, who by any means gets into Power; and impoſes the ſame neceſſity of obedience upon the Subject where there is no Law, as *Bellay* dos by virtue of one that is eſtabliſh'd. Apol. Cathol.

4. In the laſt place: As *Bellay* acknowledges that the right belongs to Princes only where 'tis eſtabliſh'd by Law, I deny that there is, was, or ever can be any ſuch. No People is known to have bin ſo mad or wicked, as by their own conſent, for their own good, and for the obtaining of Juſtice, to give the power to Beaſts, under whom it could never be obtain'd: or if we could believe that any had bin guilty of an act ſo full of folly, turpitude and wickedneſs, it could not have the force of a Law, and could never be put in execution; for tho the rules, by which the proximity ſhould be judg'd, be never ſo preciſe, it will ſtill be doubted whoſe caſe ſutes beſt with them. Tho the Law in ſome places gives private Inheritances to the next Heir, and in others makes allotments according to ſeveral proportions, no one knows to whom, or how far the benefit ſhall accrue to any man, till it be adjudg'd by a Power to which the partys muſt ſubmit. Conteſts will in the like manner ariſe concerning ſucceſſions to Crowns, how exactly ſoever they be diſpos'd by Law: For tho every one will ſay that the next ought to ſucceed, yet no man knows who is the next; which is too much verify'd by the bloody deciſions of ſuch diſputes in many parts of the world: and he that ſays the next in blood is actually King, makes all queſtions thereupon ariſing impoſſible to be otherwiſe determin'd than by the Sword; the pretender to the right being plac'd above the judgment of man, and the Subjects (for any thing I know) oblig'd to believe, ſerve and obey him, if he ſays he has it. For otherwiſe, if either every man in particular, or all together have a right of judging his title, it can be of no value till it be adjudg'd.

CHAP. III. I confeſs that the Law of *France*, by the utter excluſion of Females and their deſcendents, dos obviate many dangerous and inextricable difficultys; but others remain which are ſufficient to ſubvert all the Polity of that Kingdom, if there be not a power of judging them; and there can be none if it be true that *Le mort ſaiſit le vif*. Not to trouble my ſelf with feign'd caſes, that of Legitimation alone will ſuffice. 'Tis not enough to ſay that the Children born under marriage are to be reputed legitimate; for not only ſeveral Children born of *Joan* Daughter to the King of *Portugal*, Wife to *Henry* the Fourth of *Caſtille*, during the time of their Marriage, were utterly rejected as begotten in Adultery, but alſo her Daughter *Joan*, whom the King during his life, and at the hour of his death acknowledg'd to have bin begotten by him; and the only Title that *Iſabel*, who was marry'd to *Ferdinand* of *Arragon*, had to the Crown of *Spain*, was deriv'd from their rejection. It would be tedious, and might give offence to many great Perſons, if I ſhould relate all the dubious caſes, that have bin, or ſtill remain in the World, touching matters of this nature: but the Lawyers of all Nations will teſtify, that hardly any one point comes before them, which affords a greater number of difficult Caſes, than that of Marriages, and the Legitimation of Children upon them; and Nations muſt be involv'd in the moſt inextricable difficultys, if there be not a power ſomewhere to decide them; which cannot be, if there be no intermiſſion, and that the next in blood (that is, he who ſays he is the next) be immediately inveſted with the right and power. But ſurely no people has bin ſo careleſs of their moſt important Concernments, to leave them in ſuch uncertainty, and ſimply to depend upon the humor of a man, or the faith of women, who beſides their other Frailtys, have bin often accus'd of ſuppoſititious Births: and mens paſſions are known to be ſo violent in relation to Women they love or hate, that none can ſafely be truſted with thoſe Judgments. The vertue of the beſt would be expos'd to a temptation, that fleſh and blood can hardly reſiſt; and ſuch as are leſs perfect would follow no other rule than the blind impulſe of the paſſion that for the preſent reigns in them. There muſt therefore be a judg of ſuch diſputes as may in theſe caſes ariſe in every Kingdom; and tho 'tis not my buſineſs to determin who is that judg in all places, yet I may juſtly ſay, that in *England* it is the Parliament. If no inferior Authority could debar *Ignotus* Son to the Lady *Roſſe*, born under the Protection, from the inheritance of a private Family, none can certainly aſſume a power of diſpoſing of the Crown upon any occaſion. No Authority but that of the Parliament could legitimate the Children of *Catherine Swinford*, with a proviſo, not to extend to the inheritance of the Crown. Others might ſay, if they were lawfully begotten, they ought to inherit every thing, and nothing if they were not: But the Parliament knew how to limit a particular favor, and prevent it from extending to a publick miſchief. *Henry* the Eighth took an expeditious way of obviating part of the Controverſys that might ariſe from the multitude of his Wives, by cutting off the heads of ſome, as ſoon as he was weary of them, or had a mind to take another; but having bin hinder'd from dealing in the ſame manner with *Catherine* by the greatneſs of her birth and kindred, he left ſuch as the Parliament only could reſolve. And no leſs power would ever have thought of making *Mary* and *Elizabeth* capable of the ſucceſſion, when, according to ordinary rules, one of 'em muſt have bin a Baſtard; and it had bin abſurd to ſay, that both of 'em were immediately upon the death of their Predeceſſors

ceſſors poſſeſt of the Crown, if an Act of Parliament had not confer'd the right upon them, which they could not have by birth. But the Kings and Princes of *England* have not bin of a temper different from thoſe of other Nations: and many Examples may be brought of the like occaſions of diſpute happening every where; and the like will probably be for ever; which muſt neceſſarily introduce the moſt miſchievous confuſions, and expoſe the Titles which (as is pretended) are to be eſteem'd moſt ſacred, to be overthrown by violence and fraud, if there be not in all places a Power of deciding the Controverſys that ariſe from the uncertainty of Titles, according to the reſpective Laws of every Nation, upon which they are grounded: No man can be thought to have a juſt Title, till it be ſo adjudg'd by that power: This judgment is the firſt ſtep to the Throne: The Oath taken by the King obliges him to obſerve the Laws of his Country; and that concerning the Succeſſion being one of the principal, he is oblig'd to keep that part as well as any other. SECT. 19.

SECT. XIX.

The greateſt Enemy of a juſt Magiſtrate is he who endeavours to invalidate the Contract between him and the People, or to corrupt their Manners.

'TIS not only from Religion, but from the Law of Nature, that we learn the neceſſity of ſtanding to the agreements we make; and he who departs from the principle written in the hearts of men *Pactis ſtandum*, ſeems to degenerate into a beaſt. Such as had vertue, tho without true religion, could tell us (as a brave and excellent *Grecian* did) that it was not neceſſary for him to live, but it was neceſſary to preſerve his Heart from deceit, and his Tongue from falſhood. The *Roman* Satyriſt carrys the ſame Notion to a great height, and affirms, that * *tho the worſt of Tyrants ſhould command a man to be falſe and perjur'd, and back his injunction with the utmoſt of Torments, he ought to prefer his integrity before his life.* And tho *Filmer* may be excus'd if he often miſtake in matters of Theology; yet his Inclinations to *Rome*, which he prefers before *Geneva*, might have led him to the Principles in which the honeſt *Romans* liv'd, if he had not obſerv'd that ſuch Principles as make men honeſt and generous do alſo make them lovers of Liberty, and conſtant in the defence of their Country: which ſavouring too much of a Republican Spirit, he prefers the morals of that City, ſince they are become more refin'd by the pious and charitable Jeſuits, before thoſe that were remarkable in them, as long as they retain'd any ſhadow of their antient Integrity, which admitted of no equivocations and deteſted prevarications; by that means preſerving innocence in the hearts of private men for their inward contentment, and in civil Societys for the publick good; which if once extinguiſh'd, Mankind muſt neceſſarily fall into the condition *Hobbes* rightly calls *Bellum omnium contra omnes*, wherein no man can promiſe to himſelf

* ——Phalaris licet imperet ut ſis
Falſus, & admoto dictet perjuria Tauro,
Summum crede nefas animam præferre pudori. *Juvenal.*

CHAP. III. himſelf any other Wife, Children or Goods, than he can procure by his own Sword.

Some may perhaps think that the endeavours of our Author to introduce ſuch accurſed Principles as tend to the ruin of Mankind, proceed from his ignorance. But tho he appears to have had a great meaſure of that quality, I fear the evil proceeds from a deeper root; and that he attempts to promote the intereſts of ill Magiſtrats, who make it their buſineſs to deſtroy all good principles in the People, with as much induſtry as the good endeavour to preſerve them where they are, and teach them where they are wanting. Reaſon and Experience inſtruct us, that every man acts according to the end he propoſes to himſelf. The good Magiſtrate ſeeks the good of the People committed to his care, that he may perform the end of his Inſtitution: and knowing that chiefly to conſiſt in Juſtice and Vertue, he endeavours to plant and propagate them; and by doing this he procures his own good, as well as that of the Publick. He knows there is no Safety where there is no Strength, no Strength without Union, no Union without Juſtice; no Juſtice where Faith and Truth, in accompliſhing publick and private Contracts, is wanting. This he perpetually inculcates, and thinks it a great part of his duty, by precept and example, to educate the Youth in a love of Vertue and Truth, that they may be ſeaſon'd with them, and fill'd with an abhorrence of Vice and Falſhood, before they attain that Age which is expos'd to the moſt violent temptations, and in which they may by their crimes bring the greateſt miſchiefs upon the publick. He would do all this, tho it were to his own prejudice. But as good Actions always carry a reward with them, theſe contribute in a high meaſure to his advantage. By preferring the intereſt of the People before his own, he gains their affection, and all that is in their power comes with it; whilſt he unites them to one another, he unites all to himſelf: In leading them to vertue, he increaſes their ſtrength, and by that means provides for his own ſafety, glory and power.

On the other ſide, ſuch as ſeek different ends muſt take different ways. When a Magiſtrate fancys he is not made for the People, but the People for him; that he dos not govern for them, but for himſelf; and that the People live only to increaſe his glory, or to furniſh matter for his pleaſures, he dos not inquire what he may do for them, but what he may draw from them. By this means he ſets up an intereſt of profit, pleaſure or pomp in himſelf, repugnant to the good of the publick for which he is made to be what he is. Theſe contrary ends certainly divide the Nation into partys; and whilſt every one endeavours to advance that to which he is addicted, occaſions of hatred for injurys every day done, or thought to be done and receiv'd, muſt neceſſarily ariſe. This creates a moſt fierce and irreconcilable enmity, becauſe the occaſions are frequent, important and univerſal, and the cauſes thought to be moſt juſt. The People think it the greateſt of all crimes, to convert that power to their hurt, which was inſtituted for their good; and that the injuſtice is aggravated by perjury and ingratitude, which comprehend all manner of ill; and the Magiſtrate gives the name of Sedition or Rebellion to whatſoever they do for the preſervation of themſelves and their own Rights. When mens Spirits are thus prepar'd, a ſmall matter ſets them on fire; but if no accident happen to blow them into a flame, the courſe of Juſtice is certainly interrupted, the publick affairs are neglected; and when any occaſion whether foreign or domeſtick ariſes, in which the Magiſtrate

ſtands

ſtands in need of the Peoples aſſiſtance, they, whoſe affections are alienated, not only ſhew an unwillingneſs to ſerve him with their Perſons and Eſtates, but fear that by delivering him from his diſtreſs they ſtrengthen their enemy, and enable him to oppreſs them: and he fancying his will to be unjuſtly oppos'd, or his due more unjuſtly deny'd, is fill'd with a diſlike of what he ſees, and a fear of worſe for the future. Whilſt he endeavours to eaſe himſelf of the one, and to provide againſt the other, he uſually increaſes the evils of both, and jealouſys are on both ſides multiply'd. Every man knows that the Governed are in a great meaſure under the power of the Governor; but as no man, or number of men, is willingly ſubject to thoſe who ſeek their ruin, ſuch as fall into ſo great a misfortune, continue no longer under it than force, fear, or neceſſity may be able to oblige them. But as ſuch a neceſſity can hardly lie longer upon a great People, than till the evil be fully diſcover'd and comprehended, and their Vertue, Strength and Power be united to expel it; the ill Magiſtrate looks upon all things that may conduce to that end, as ſo many preparatives to his ruin; and by the help of thoſe who are of his party, will endeavour to prevent that Union, and diminiſh that Strength, Vertue, Power and Courage, which he knows to be bent againſt him. And as truth, faithful dealing, due performance of Contracts, and integrity of Manners, are bonds of Union, and helps to good, he will always by tricks, artifices, cavils, and all means poſſible endeavour to eſtabliſh falſhood and diſhoneſty; whilſt other Emiſſarys and inſtruments of Iniquity, by corrupting the Youth, and ſeducing ſuch as can be brought to leudneſs and debauchery, bring the People to ſuch a paſs, that they may neither care nor dare to vindicate their Rights, and that thoſe who would do it, may ſo far ſuſpect each other, as not to confer upon, much leſs to join in any action tending to the publick Deliverance. SECT. 19.

This diſtinguiſhes the good from the bad Magiſtrate, the faithful from the unfaithful; and thoſe who adhere to either, living in the ſame principle, muſt walk in the ſame ways. They who uphold the rightful power of a juſt Magiſtracy, encourage Vertue and Juſtice, and teach men what they ought to do, ſuffer, or expect from others; they fix them upon principles of Honeſty, and generally advance every thing that tends to the increaſe of the valor, ſtrength, greatneſs and happineſs of the Nation, creating a good Union among them, and bringing every man to an exact underſtanding of his own and the publick Rights. On the other ſide, he that would introduce an ill Magiſtrate; make one evil who was good, or preſerve him in the exerciſe of injuſtice when he is corrupted, muſt always open the way for him by vitiating the People, corrupting their Manners, deſtroying the validity of Oaths and Contracts, teaching ſuch evaſions, equivocations and frauds, as are inconſiſtent with the thoughts that become men of vertue and courage; and overthrowing the confidence they ought to have in each other, make it impoſſible for them to unite among themſelves. The like Arts muſt be us'd with the Magiſtrate: He cannot be for their turn, till he is perſuaded to believe he has no dependence upon, and ows no duty to the People; that he is of himſelf, and not by their Inſtitution; that no man ought to inquire into, nor be judg of his actions; that all obedience is due to him, whether he be good or bad, wiſe or fooliſh, a father or an enemy to his Country. This being calculated for his perſonal intereſt, he muſt purſue the ſame deſigns, or his Kingdom is divided within it ſelf, and cannot ſubſiſt. By this means thoſe who flatter his humor, come to be accounted his

Friends,

CHAP. III. Friends, and the only men that are thought worthy of great Truſts, whilſt ſuch as are of another mind are expos'd to all perſecution. Theſe are always ſuch as excel in Vertue, Wiſdom, and greatneſs of Spirit: they have Eyes, and they will always ſee the way they go; and leaving fools to be guided by implicit Faith, will diſtinguiſh between good and evil, and chuſe that which is beſt; they will judg of men by their actions, and by them diſcovering whoſe Servant every man is, know whether he is to be obey'd or not. Thoſe who are ignorant of all good, careleſs, or enemys to it, take a more compendious way: their ſlaviſh, vitious and baſe natures inclining them to ſeek only private and preſent advantages, they eaſily ſlide into a blind dependence upon one who has Wealth and Power; and deſiring only to know his will, care not what injuſtice they do, if they may be rewarded. They worſhip what they find in the Temple, tho it be the vileſt of Idols, and always like that beſt which is worſt, becauſe it agrees with their inclinations and principles. When a party comes to be erected on ſuch a foundation, debauchery, leudneſs and diſhoneſty are the true badges of it. Such as wear them are cheriſh'd; but the principal marks of favor are reſerv'd for thoſe who are the moſt induſtrious in miſchief, either by ſeducing the People with the allurements of ſenſual Pleaſures, or corrupting their Underſtandings by falſe and ſlaviſh Doctrins. By this means a man who calls himſelf a Philoſopher or a Divine, is often more uſeful than a great number of Tapſters, Cooks, Buffoons, Players, Fidlers, Whores or Bauds. Theſe are the Devil's Miniſters of a lower Order; they ſeduce ſingle Perſons, and ſuch as fall into their ſnares are for the moſt part men of the ſimpler ſort: but the principal ſupporters of his Kingdom, are they, who by falſe Doctrins poiſon the ſprings of Religion and Vertue, and by preaching or writing (if their falſhood and wickedneſs were not detected) would extinguiſh all principles of common honeſty, and bring whole Nations to be beſt ſatisfy'd with themſelves, when their actions are moſt abominable. And as the means muſt always be ſutable to the end propos'd, the Governments that are to be eſtabliſh'd or ſupported by ſuch ways muſt needs be the worſt of all, and comprehend all manner of evil.

SECT. XX.

Unjuſt Commands are not to be obey'd; and no man is oblig'd to ſuffer for not obeying ſuch as are againſt Law.

IN the next place our Author gravely propoſes a queſtion, *Whether it be a ſin to diſobey the King, if he command any thing contrary to Law?* and as gravely determins, *that not only in human Laws, but even in Divine, a thing may be commanded contrary to Law, and yet obedience to ſuch a Command is neceſſary. The ſanctifying of the Sabbath is a divine Law, yet if a Maſter command his Servant not to go to Church upon a Sabbath-day, the beſt Divines teach us, the Servant muſt obey,* &c. *It is not fit to ty the Maſter to acquaint the Servant with his ſecret Counſel.* Tho he frequently contradicts in one line what he ſays in another, this whole Clauſe is uniform and ſutable to the main deſign of his Book. He ſets up the authority

thority of Man in oppoſition to the command of God, gives it the preference, and ſays, the beſt Divines inſtruct us ſo to do. St. *Paul* then muſt have bin one of the worſt, for he knew that the Powers under which he liv'd, had under the ſevereſt penaltys forbidden the publication of the Goſpel; and yet he ſays, *Wo to me if I preach it not.* St. *Peter* was no better than he, for he tells us, *That it is better to obey God than Man:* and they could not ſpeak otherwiſe, unleſs they had forgotten the words of their Maſter, who told them, *They ſhould not fear them that could only kill the Body, but him who could kill and caſt into Hell.* And if I muſt not fear him that can only kill the Body, not only the reaſon, but all excuſe for obeying him is taken away. SECT. 20.

To prove what he ſays, he cites a pertinent Example from St. *Luke*, and very logically concludes, that becauſe Chriſt approv'd the hypocriſy of the *Phariſees*, (who generally adher'd to the external and circumſtantial part of the Law, neglecting the eſſential, and taking upon themſelves to be the interpreters of that which they did not underſtand) the Law of God is not to be obey'd: and as ſtrongly proves, that becauſe Chriſt ſhew'd them that the ſame Law, which by their own confeſſion permitted them to pull an Aſs out of a pit on the Sabbath-day, could not but give a liberty of healing the ſick, therefore the commands of Kings are to be obey'd, tho they ſhould be contrary to human and divine Laws. But if perverſeneſs had not blinded him, he might have ſeen, that this very Text is wholly againſt his purpoſe; for the Magiſtratical Power was on the ſide of the *Phariſees*, otherwiſe they would not have ſought an occaſion to enſnare him; and that power having perverted the Law of God by falſe gloſſes, and a ſuperinduction of human Traditions, prohibited the moſt neceſſary acts of Charity to be done on the Sabbath-day, which Chriſt reprov'd, and reſtor'd the ſick man to his health in their ſight. Chap. 14.

But I could wiſh our Author had told us the names of thoſe Divines, who, he ſays, are the beſt, and who pretend to teach us theſe fine things. I know ſome who are thought good, that are of a contrary opinion, and ſay, that God having requir'd that Day to be ſet apart for his Service and Worſhip, man cannot diſpenſe with the Obligation, unleſs he can abrogate the Law of God. Perhaps, for want of other Arguments to prove the contrary, I may be told, that this ſavours too much of Puritaniſm and Calviniſm. But I ſhall take the reproach, till ſome better Patrons than *Laud* and his creatures may be found for the other opinion. By the advice and inſtigation of theſe men, from about the year 1630, to 1640, ſports and revelings, which ended for the moſt part in drunkenneſs and leudneſs, were not only permitted on that day, but enjoin'd. And tho this did advance human Authority in derogation to the Divine, to a degree that may pleaſe ſuch as are of our Author's mind, yet others reſolving rather to obey the Laws of God than the Commands of Men, could not be brought to paſs the Lord's day in that manner. Since that time no man except *Filmer* and *Heylin* have bin ſo wicked to conceive, or ſo impudent to aſſert ſuch brutal abſurditys. But leaving the farther conſideration of the original of this abuſe, I deſire to know, whether the Authority given to Maſters to command things contrary to the Law of God, be peculiar in relation to the Sabbath, or to a few other points, or ought generally to extend to all God's Laws; and whether he who may command his Servant to act contrary to the Law of God, have not a right in himſelf of doing the ſame. If peculiar, ſome Authority or Precept

CHAP. III.

cept muſt be produc'd, by which it may appear that God has ſlighted his Ordinance concerning that Day, and ſuffer'd it to be contemn'd, whilſt he exacts obedience to all others. If we have a liberty left to us of ſlighting others alſo, more or leſs in number, we ought to know how many, what they are, and how it comes to paſs, that ſome are of obligation and others not. If the Empire of the world is not only divided between God and *Ceſar*, but every man alſo who can give five pounds a year to a Servant, has ſo great a part in it, that in ſome caſes his commands are to be obey'd preferably to thoſe of God, it were fit to know the limits of each Kingdom, leſt we happen prepoſterouſly to obey man when we ought to obey God, or God when we are to follow the commands of men. If it be general, the Law of God is of no effect, and we may ſafely put an end to all thoughts and diſcourſes of Religion: the word of God is nothing to us; we are not to inquire what he has commanded, but what pleaſes our Maſter, how inſolent, fooliſh, vile or wicked ſoever he may be. The Apoſtles and Prophets who dy'd for preferring the commands of God before thoſe of men, fell like fools, and periſh'd in their ſins. But if every particular man that has a ſervant, can exempt him from the commands of God, he may alſo exempt himſelf, and the Laws of God are at once abrogated throout the world.

'Tis a folly to ſay there is a paſſive, as well as an active Obedience, and that he who will not do what his Maſter commands ought to ſuffer the puniſhment he inflicts: for if the Maſter has a right of commanding, there is a duty incumbent on the ſervant of obeying. He that ſuffers for not doing that which he ought to do, draws upon himſelf both the guilt and the puniſhment. But no one can be oblig'd to ſuffer for that which he ought not to do, becauſe he who pretends to command, has not ſo far an Authority. However, our queſtion is, whether the Servant ſhould forbear to do that which God commands, rather than whether the Maſter ſhould put away or beat him if he do not: for if the Servant ought to obey his Maſter rather than God, as our Author ſays the beſt Divines aſſert, he ſins in diſobeying, and that guilt cannot be expiated by his ſuffering. If it be thought I carry this point to an undue extremity, the limits ought to be demonſtrated, by which it may appear that I exceed them, tho the nature of the caſe cannot be alter'd: for if the Law of God may not be abrogated by the commands of men, a Servant cannot be exempted from keeping the Sabbath according to the Ordinance of God, at the will of his Maſter. But if a power be given to man at his pleaſure to annul the Laws of God, the Apoſtles ought not to have preach'd, when they were forbidden by the Powers to which they were ſubject: The tortures and deaths they ſuffer'd for not obeying that command were in their own wrong, and their blood was upon their own heads.

His ſecond inſtance concerning Wars, in which he ſays the Subject is not to examin whether they are juſt or unjuſt, but muſt obey, is weak and frivolous, and very often falſe; whereas conſequences can rightly be drawn from ſuch things only as are certainly and univerſally true. Tho God may be merciful to a Soldier, who by the wickedneſs of a Magiſtrate whom he honeſtly truſts, is made a Miniſter of injuſtice, 'tis nothing to this caſe. For if our Author ſay true, that the word of a King can juſtify him in going againſt the command of God, he muſt do what is commanded tho he think it evil: The Chriſtian Soldiers under the Pagan Emperors were oblig'd to deſtroy their Brethren, and the beſt men

men in the world for being ſo: Such as now live under the *Turk* have the ſame obligation upon them of defending their Maſter, and ſlaughtering thoſe he reputes his Enemys for adhering to Chriſtianity: And the King of *France* may when he pleaſes, arm one part of his Proteſtant Subjects to the deſtruction of the other; which is a godly doctrin, and worthy our Author's invention. SECT. 21.

But if this be ſo, I know not how the *Iſraelites* can be ſaid to have ſinn'd in following the examples of *Jeroboam*, *Omri*, *Ahab*, or other wicked Kings: they could not have ſinn'd in obeying, if it had bin a ſin to diſobey their commands; and God would not have puniſh'd them ſo ſeverely, if they had not ſinn'd. 'Tis impertinent to ſay they were oblig'd to ſerve their Kings in unjuſt Wars, but not to ſerve Idols; for tho God be jealous of his glory, yet he forbids Rapine and Murder as well as Idolatry. If there be a Law that forbids the Subject to examin the commands tending to the one, it cannot but enjoin obedience to the other. The ſame Authority which juſtifys Murder, takes away the guilt of Idolatry; and the Wretches, both Judges and Witneſſes, who put *Naboth* to death, could as little alledg ignorance, as thoſe that worſhip'd *Jeroboam*'s Calves; the ſame light of Nature by which they ſhould have known, that a ridiculous Image was not to be ador'd as God, inſtructing them alſo, that an innocent man ought not under pretence of Law to be murder'd by perjury.

SECT. XXI.

It cannot be for the good of the People that the Magiſtrate have a power above the Law: and he is not a Magiſtrate who has not his power by Law.

THAT we may not be diſpleas'd, or think it dangerous and ſlaviſh to depend upon the will of a man, which perhaps may be irregular or extravagant in one who is ſubject to no Law, our Author very dextrouſly removes the ſcruples by telling us,

1. *That the Prerogative of the King to be above the Law, is only for the good of them that are under the Law, and to preſerve their Libertys.*

2. *That there can be no Laws without a ſupreme Power to command or make them: In Ariſtocracys the Noblemen are above the Law; in Democracys the People: By the like reaſon in a Monarchy, the King muſt of neceſſity be above the Law. There can be no Sovereign Majeſty in him that is under the Law: that which gives the very being to a King, is the power to give Laws. Without this Power he is but an equivocal King. It skills not how he comes by this Power, whether by Election, Donation, Succeſſion, or any other means.* I am contented in ſome degree to follow our Author, and to acknowledg that the King neither has nor can have any Prerogative which is not for the good of the People, and the preſervation of their Libertys. This therefore is the foundation of Magiſtratical Power, and the only way of diſcerning whether the Prerogative of making Laws, of being above Laws, or any other he may pretend, be juſtly due to him or not: and if it be doubted who is the fitteſt judg to determin that queſtion, common ſenſe will inform us, that if the Magiſtrate receive his Power by election or donation, they who elect, or give him that Power, beſt

CHAP. III. know whether the good they ſought be perform'd or not; if by ſucceſſion, they who inſtituted the Succeſſion: if otherwiſe, that is, by fraud or violence, the point is decided, for he has no right at all, and none can be created by thoſe means. This might be ſaid, tho all Princes were of ripe age, ſober, wiſe, juſt and good; for even the beſt are ſubject to miſtakes and paſſions, and therefore unfit to be judges of their own concernments, in which they may by various means be miſguided: but it would be extreme madneſs to attribute the ſame to Children, Fools, or Madmen, who are not able to judg of the leaſt things concerning themſelves or others; but moſt eſpecially to thoſe, who coming in by uſurpation, declare their contempt of all human and divine Laws, and are enemys to the People they oppreſs. None therefore can be judges of ſuch caſes but the People, for whom and by whom the Conſtitutions are made; or their Repreſentatives and Delegats, to whom they give the power of doing it.

But nothing can be more abſurd than to ſay, that one man has an abſolute power above Law to govern according to his will, *for the Peoples good, and the preſervation of their Liberty:* For no Liberty can ſubſiſt where there is ſuch a Power; and we have no other way of diſtinguiſhing between free Nations and ſuch as are not ſo, than that the free are govern'd by their own Laws and Magiſtrats according to their own mind, and that the others either have willingly ſubjected themſelves, or are by force brought under the power of one or more men, to be rul'd according to his or their pleaſure. The ſame diſtinction holds in relation to particular perſons. He is a free man who lives as beſt pleaſes himſelf, under Laws made by his own conſent; and the name of ſlave can belong to no man, unleſs to him who is either born in the houſe of a Maſter, bought, taken, ſubdu'd, or willingly gives his ear to be nail'd to the poſt, and ſubjects himſelf to the will of another. Thus were the *Grecians* ſaid to be free in oppoſition to the *Medes* and *Perſians*, as *Artabanus* acknowledg'd in his Diſcourſe to *Themiſtocles*. In the ſame manner the *Italians*, *Germans* and *Spaniards* were diſtinguiſh'd from the Eaſtern Nations. who for the moſt part were under the power of Tyrants. *Rome* was ſaid to have recover'd liberty by the expulſion of the *Tarquins*; or, as *Tacitus* expreſſes it, * *Lucius Brutus eſtabliſh'd Liberty and the Conſulat together*, as if before that time they had never enjoy'd any; and *Julius Ceſar* is ſaid to have overthrown the liberty of that People. But if *Filmer* deſerve credit, the *Romans* were free under *Tarquin*, enſlav'd when he was driven way, and his Prerogative extinguiſh'd, that was ſo neceſſarily requir'd for the defence of their Liberty; and were never reſtor'd to it, till *Ceſar* aſſum'd all the Power to himſelf. By the ſame rule the *Switzers*, *Griſons*, *Venetians*, *Hollanders*, and ſome other Nations are now Slaves; and *Tuſcany*, the Kingdom of *Naples*, the Eccleſiaſtical State, with ſuch as live under a more gentle Maſter on the other ſide of the Water, I mean the *Turk*, are free Nations. Nay the *Florentins*, who complain of Slavery under the Houſe of *Medices*, were made free by the power of a *Spaniſh* Army who ſet up a Prerogative in that gentle Family, which for their good has deſtroy'd all that could juſtly be call'd ſo in that Country, and almoſt wholly diſpeopl'd it. I, who eſteem my ſelf free, becauſe I depend upon the will of no man, and hope to die in the liberty I inherit from my Anceſtors, am a ſlave; and the *Moors* or *Turks*, who

* Libertatem & Conſulatum L. Brutus inſtituit. *An. l.* 1.

may

may be beaten and kill'd whenever it pleaſes their inſolent Maſters, are Free-men. But ſurely the world is not ſo much miſtaken in the ſignification of words and things. The weight of Chains, number of Stripes, hardneſs of labor, and other effects of a Maſter's cruelty, may make one ſervitude more miſerable than another: but he is a ſlave who ſerves the beſt and gentleſt man in the world, as well as he who ſerves the worſt; and he dos ſerve him if he muſt obey his commands, and depends upon his will. For this reaſon the Poet ingeniouſly flattering a good Emperor, ſaid, that Liberty was not more deſirable, than to ſerve a gentle Maſter; but ſtill acknowledg'd that it was a ſervice, diſtinct from, and contrary to Liberty: and it had not bin a handſom complement, unleſs the evil of ſervitude were ſo extreme, that nothing but the vertue and goodneſs of the Maſter could any way compenſate or alleviate it. Now tho it ſhould be granted that he had ſpoken more like to a Philoſopher than a Poet; that we might take his words in the ſtricteſt ſenſe, and think it poſſible to find ſuch Conveniences in a ſubjection to the will of a good and wiſe Maſter, as may balance the loſs of Liberty, it would be nothing to the queſtion; becauſe that Liberty is thereby acknowledg'd to be deſtroy'd by the Prerogative, which is only inſtituted to preſerve it. If it were true, that no liberty were to be prefer'd before the ſervice of a good Maſter, it could be of no uſe to the periſhing world, which *Filmer* and his Diſciples would by ſuch arguments bring into a ſubjection to children, fools, mad or vicious men. Theſe are not caſes feign'd upon a diſtant imaginary poſſibility, but ſo frequently found amongſt men, that there are few examples of the contrary. And as 'tis folly to ſuppoſe that Princes will always be wiſe, juſt and good, when we know that few have bin able alone to bear the weight of a Government, or to reſiſt the temptations to ill, that accompany an unlimited power, it would be madneſs to preſume they will for the future be free from infirmitys and vices. And if they be not, the Nations under them will not be in ſuch a condition of ſervitude to a good Maſter as the Poet compares to Liberty, but in a miſerable and ſhameful ſubjection to the will of thoſe who know not how to govern themſelves, or to do good to others. Tho *Moſes*, *Joſhua* and *Samuel* had bin able to bear the weight of an unreſtrain'd Power: tho *David* and *Solomon* had never abus'd that which they had; what effect could this have upon a general Propoſition? Where are the Familys that always produce ſuch as they were? When did God promiſe to aſſiſt all thoſe who ſhould attain to the Sovereign Power, as he did them whom he choſe for the works he deſign'd? Or what teſtimony can *Filmer* give us, that he has bin preſent with all thoſe who have hitherto reign'd in the world? But if we know that no ſuch thing either is, or has bin; and can find no promiſe to aſſure us, nor reaſon to hope that it ever will be, 'tis as fooliſh to found the hopes of preſerving a People upon that which never was, or is ſo likely to fail, nay rather which in a ſhort time moſt certainly will fail, as to root up Vines and Figtrees in expectation of gathering grapes and figs from thiſtles and briars. This would be no leſs than to extinguiſh the light of common ſenſe, to neglect the means that God has given us to provide for our ſecurity, and to impute to him a diſpoſition of things utterly inconſiſtent with his Wiſdom and Goodneſs. If he has not therefore order'd that thorns and thiſtles ſhould produce figs and grapes, nor that the moſt important works in the world, which are not without the utmoſt difficulty, if at all, to be perform'd by the beſt and wiſeſt of men, ſhould be put into

SECT. 21.

CHAP. III. the hands of the weakeſt, moſt fooliſh and worſt, he cannot have ordain'd that ſuch men, women or children as happen to be born in reigning Familys, or get the power into their hands by fraud, treachery or murder (as very many have done) ſhould have a right of diſpoſing all things according to their will. And if men cannot be guilty of ſo great an abſurdity to truſt the weakeſt and worſt with a Power which uſually ſubverts the Wiſdom and Vertue of the beſt; or to expect ſuch effects of Vertue and Wiſdom from thoſe who come by chance, as can hardly, if at all, be hop'd from the moſt excellent; our Author's Propoſition can neither be grounded upon the Ordinance of God, nor the Inſtitution of men. Nay, if any ſuch thing had bin eſtabliſh'd by our firſt Parents in their ſimplicity, the utter impoſſibility of attaining what they expected from it, muſt wholly have abrogated the Eſtabliſhment: Or rather, it had bin void from the beginning, becauſe it was not * *a juſt Sanction, commanding things good, and forbidding the contrary*, but a fooliſh and perverſe Sanction, ſetting up the unruly appetites of one perſon to the ſubverſion of all that is good in the world, by making the wiſdom of the aged and experienc'd to depend upon the will of Women, Children and Fools; by ſending the ſtrong and the brave to ſeek protection from the moſt weak and cowardly, and ſubjecting the moſt vertuous and beſt of men to be deſtroy'd by the moſt wicked and vicious. Theſe being the effects of that unlimited prerogative, which our Author ſays was only inſtituted for the good and defence of the people, it muſt neceſſarily fall to the ground, unleſs ſlavery, miſery, infamy, deſtruction and deſolation tend to the preſervation of Liberty, and are to be prefer'd before ſtrength, glory, plenty, ſecurity and happineſs. The ſtate of the *Roman* Empire after the Uſurpation of *Ceſar* will ſet this matter in the cleareſt light; but having done it already in the former parts of this work, I content my ſelf to refer to thoſe places. And tho the Calamitys they ſuffer'd were a little allay'd and moderated by the Vertues of *Antoninus* and *M. Aurelius*, with one or two more, yet we have no example of the continuance of them in a family; nor of any Nation great or ſmall that has bin under an abſolute Power, which dos not too plainly manifeſt that no man or ſucceſſion of men is to be truſted with it.

But ſays our Author, *there can be no Law where there is not a ſupreme Power*; and from thence very ſtrongly concludes it muſt be in the King; for *otherwiſe there can be no Sovereign Majeſty in him, and he is but an equivocal King*. This might have bin of ſome force, if Governments were eſtabliſh'd, and Laws made only to advance that Sovereign Majeſty; but nothing at all to the purpoſe, if (as he confeſſes) the power which he has be given for the good of the People, and for the defence of every private man's Life, Liberty, Lands and Goods: for that which is inſtituted, cannot be abrogated for want of that which was never intended in the inſtitution. If the publick Safety be provided, Liberty and Propriety ſecur'd, Juſtice adminiſter'd, Vertue encourag'd, Vice ſuppreſt, and the true intereſt of the Nation advanc'd, the ends of Government are accompliſh'd; and the higheſt muſt be contented with ſuch a proportion of Glory and Majeſty as is conſiſtent with the publick; ſince the Magiſtracy is not inſtituted, nor any perſon plac'd in it for the increaſe of his Majeſty, but for the preſervation of the whole People, and the defence of the Liberty, Life and Eſtate of every private man, as our Author himſelf is forc'd to acknowledg.

* Sanctio recta, jubens honeſta, prohibens contraria. *Cicer.*

But

But what is this Sovereign Majeſty, ſo inſeparable from Royalty, that one cannot ſubſiſt without the other? *Caligula* plac'd it in a power of * doing what he pleas'd to all men: *Nimrod*, *Nabuchodonoſor* and others, with an impious and barbarous inſolence, boaſted of the greatneſs of their power. They thought it a glorious Privilege to kill or ſpare whom they pleas'd. But ſuch Kings as by God's permiſſion might have bin ſet up over his people, were to have nothing of this. They were not to multiply Gold, Silver, Wives or Horſes; they were not to govern by their own will, but according to the Law; from which they might not recede, nor raiſe their Hearts above their brethren. Here were Kings without that unlimited Power, which makes up the Sovereign Majeſty, that *Filmer* affirms to be ſo eſſential to Kings, that without it they are only equivocal; which proving nothing but the incurable perverſneſs of his judgment, the malice of his heart or malignity of his fate, always to oppoſe reaſon and truth, we are to eſteem thoſe to be Kings who are deſcrib'd to be ſo by the Scriptures, and to give another name to thoſe who endeavour to advance their own glory, contrary to the precept of God and the intereſt of mankind. SECT. 21. Deut. 17.

But unleſs the light of reaſon had bin extinguiſh'd in him, he might have ſeen, that tho no Law could be made without a ſupreme Power, that Supremacy may be in a Body conſiſting of many men, and ſeveral orders of men. If it be true, which perhaps may be doubted, that there have bin in the world ſimple Monarchys, Ariſtocracys or Democracys legally eſtabliſh'd, 'tis certain that the moſt part of the Governments of the world (and I think all that are or have bin good) were mix'd. Part of the Power has bin confer'd upon the King, or the Magiſtrate that repreſented him, and part upon the Senat and People, as has bin prov'd in relation to the Governments of the *Hebrews*, *Spartans*, *Romans*, *Venetians*, *Germans*, and all thoſe who live under that which is uſually call'd the Gothic Polity. If the ſingle Perſon participating of this divided Power diſlike either the Name he bears, or the Authority he has, he may renounce it; but no reaſon can be from thence drawn to the prejudice of Nations, who give ſo much as they think conſiſtent with their own good, and reſerve the reſt to themſelves, or to ſuch other Officers as they pleaſe to eſtabliſh.

No man will deny that ſeveral Nations have had a right of giving power to Conſuls, Dictators, Archons, Suffetes, Dukes and other Magiſtrats, in ſuch proportions as ſeem'd moſt conducing to their own good; and there muſt be a right in every Nation of allotting to Kings ſo much as they pleaſe, as well as to the others, unleſs there be a charm in the word King, or in the Letters that compoſe it. But this cannot be; for there is no ſimilitude between *King*, *Rex*, and *Baſileus*: they muſt therefore have a right of regulating the Power of Kings, as well as that of Conſuls or Dictators; and it had not bin more ridiculous in *Fabius*, *Scipio*, *Camillus* or *Cincinnatus*, to aſſert an abſolute power in himſelf, under pretence of advancing his Sovereign Majeſty againſt the Law, than for any King to do the like. But as all Nations give what form they pleaſe to their Government, they are alſo judges of the name to be impos'd upon each man who is to have a part in the power: and 'tis as lawful for us to call him King, who has a limited Authority amongſt us, as for the *Medes* or *Arabs* to give the ſame name to one who is more abſolute.

* Omnia mihi in omnes licere. *Sueton.*

CHAP. III. If this be not admitted, we are content to ſpeak improperly, but utterly deny that when we give the name, we give any thing more than we pleaſe; and had rather his Majeſty ſhould change his name than to renounce our own Rights and Libertys which he is to preſerve, and which we have receiv'd from God and Nature.

But that the folly and wickedneſs of our Author may not be capable of any farther aggravation, he ſays, *That it skills not how he come by the power.* Violence therefore or fraud, treachery or murder, are as good as Election, Donation, or legal Succeſſion. 'Tis in vain to examin the Laws of God or Man, or the rights of nature; whether Children do inherit the Dignitys and Magiſtracys of their Fathers, as patrimonial Lands and Goods; whether regard ought to be had to the fitneſs of the Perſon; whether all ſhould go to one, or be divided amongſt them; or by what rule we may know who is the right Heir to the Succeſſion, and conſequently what we are in conſcience oblig'd to do. Our Author tells us in ſhort, it matters not how he that has the power comes by it.

It has bin hitherto thought, that to kill a King (eſpecially a good King) was a moſt abominable action. They who did it, were thought to be incited by the worſt of paſſions that can enter into the hearts of men; and the ſevereſt puniſhments have bin invented to deter them from ſuch attempts, or to avenge their death upon thoſe who ſhould accompliſh it. But if our Author may be credited, it muſt be the moſt commendable and glorious act that can be perform'd by man: for beſides the outward advantages that men ſo earneſtly deſire, he that dos it, is preſently inveſted with the Sovereign Majeſty, and at the ſame time becomes God's Vicegerent, and the father of his Country, poſſeſt of that Government, which in excluſion to all other forms is only favour'd by the Laws of God and Nature. The only inconvenience is, that all depends upon ſucceſs, and he that is to be the Miniſter of God, and father of his Country if he ſucceed, is the worſt of all villains if he fail; and at the beſt may be depriv'd of all by the ſame means he employ'd to gain it. Tho a Prince ſhould have the wiſdom and vertues of *Moſes*, the valor of *Joſhua*, *David* and the *Maccabees*, with the gentleneſs and integrity of *Samuel*, the moſt fooliſh, vitious, baſe and deteſtable man in the world that kills him, and ſeizes the power, becomes his Heir, and father of the People that he govern'd; it *skills* not how he did it, whether in open battel or ſecret treachery, in the field or in the bed, by poiſon or by the ſword: The vileſt ſlave in *Iſrael* had become the Lord's anointed, if he could have kill'd *David* or *Solomon*, and found villains to place him in the Throne. If this be right, the world has to this day liv'd in darkneſs, and the actions which have bin thought to be the moſt deteſtable, are the moſt commendable and glorious. But not troubling my ſelf at preſent to decide this queſtion, I leave it to Kings to conſider how much they are beholden to *Filmer* and his diſciples, who ſet ſuch a price upon their heads, as would render it hard to preſerve their Lives one day, if the Doctrins were receiv'd, which they endeavour to infuſe into the Minds of the People; and concluding this point, only ſay, that we in *England* know no other King than he who is ſo by Law, nor any power in that King except that which he has by Law: And tho the Roman Empire was held by the power of the Sword; and *Ulpian* a corrupt Lawyer undertakes to ſay, that *the Prince is not oblig'd by the Laws*; yet *Theodoſius* confeſt, that it was the glory of a good Emperor to acknowledg himſelf bound by them.

SECT.

SECT. XXII.

The rigor of the Law is to be temper'd by men of known integrity and judgment, and not by the Prince who may be ignorant or vicious.

OUR Author's next ſhift is to place the King above the Law, that he may mitigate the rigor of it, without which, he ſays, *the caſe of the Subject would be deſperately miſerable.* But this cure would prove worſe than the diſeaſe. Such pious fathers of the People as *Caligula*, *Nero* or *Domitian*, were not like to mitigate the rigor; nor ſuch as inherit Crowns in their infancy (as the preſent Kings of *Spain*, *France* and *Sweden*) ſo well to underſtand the meaning of it as to decide extraordinary caſes. The wiſdom of Nations has provided more aſſured helps; and none could have bin ſo brutiſh and negligent of the publick Concernments, to ſuffer the Succeſſion to fall to women, children, *&c.* if they had not reſerv'd a power in themſelves to prefer others before the neareſt in blood, if reaſon require; and preſcrib'd ſuch rules as might preſerve the publick from ruin, notwithſtanding their infirmitys and vices. Theſe helps provided by our Laws, are principally by grand and petit Jurys, who are not only Judges of matters of fact, as whether a man be kill'd, but whether he be kill'd criminally. Theſe Men are upon their Oaths, and may be indicted of Perjury if they prevaricate: The Judges are preſent not only to be a check upon them, but to explain ſuch points of the Law as may ſeem difficult. And tho theſe Judges may be ſaid in ſome ſenſe to be choſen by the King, he is not underſtood to do it otherwiſe than by the advice of his Council, who cannot perform their duty, unleſs they propoſe ſuch as in their conſciences they think moſt worthy of the Office, and moſt capable of performing the duty rightly; nor he accompliſh the Oath of his Coronation, unleſs he admit thoſe, who upon deliberation ſeem to be the beſt. The Judges being thus choſen, are ſo far from depending upon the will of the King, that they ſwear faithfully to ſerve the People as well as the King, and to do juſtice to every man according to the Law of the Land, notwithſtanding any Writs, Letters or Commands receiv'd from him; and in default thereof they are to forfeit their bodys, lands and goods, as in caſes of Treaſon. Theſe Laws have bin ſo often, and ſo ſeverely executed, that it concerns all Judges well to conſider them; and the Caſes of *Treſilian*, *Empſon*, *Dudley*, and others ſhew, that neither the King's preceding command nor ſubſequent pardon could preſerve them from the puniſhment they deſerv'd. All men knew that what they did was agreeable to the King's pleaſure, for *Treſilian* advanc'd the Prerogative of *Edward* the *2d*, and *Empſon* brought great Treaſures into the Coffers of *Henry* the *7th*. Nevertheleſs they were charg'd with Treaſon, for ſubverting the Laws of the Land, and executed as Traitors. Tho *England* ought never to forget the happy Reign of Q. *Elizabeth*, yet it muſt be acknowledg'd that ſhe as well as others had her failings. She was full of love to the People, juſt in her nature, ſincere in her intentions; but could not ſo perfectly diſcover the ſnares that were laid for her, or reſiſt the importunity of the Perſons ſhe moſt truſted, as not ſometimes to be brought to attempt things

18 Edw. 3. cap. 1.

CHAP. III.

Anderſon's Rep. p. 155.

things againſt Law. She and her Counſellors preſt the Judges very hard to obey the Patent under her Great Seal, in the caſe of *Cavendiſh*: but they anſwer'd, *That both ſhe and they had taken an Oath to keep the Law, and if they ſhould obey her commands, the Law would not warrant them*, &c. And beſides the offence againſt God, their Country, and the Commonwealth, they alledg'd the example of *Empſon* and *Dudley, whereby*, they ſaid, *they were deter'd from obeying her illegal Commands.* They who had ſworn to keep the Law notwithſtanding the King's Writs, knew that the Law depended not upon his will: and the ſame Oath that oblig'd them not to regard any command they ſhould receive from him, ſhew'd that they were not to expect indemnity by it; and not only that the King had neither the power of making, altering, mitigating or interpreting the Law, but that he was not at all to be heard, in general or particular matters, otherwiſe than as he ſpeaks in the common courſe of Juſtice, by the Courts legally eſtabliſh'd, which ſay the ſame thing, whether he be young or old, ignorant or wiſe, wicked or good. And nothing dos better evidence the wiſdom and care of our Anceſtors, in framing the Laws and Government we live under, than that the People did not ſuffer extremitys by the vices or infirmitys of Kings, till an Age more full of malice than thoſe in which they liv'd, had found tricks to pervert the rule, and fruſtrate their honeſt intentions. It was not ſafe for the Kings to violate their Oaths by an undue interpoſition of their Authority; but the Miniſters who ſerv'd them in thoſe violations, have ſeldom eſcap'd puniſhment. This is to be underſtood when the deviations from Juſtice are extreme and miſchievous, for ſomething muſt always be allow'd to human frailty: The beſt have their defects, and none could ſtand if a too exact ſcrutiny were made of all their actions. *Edward* the third, about the twentieth year of his Reign, acknowledg'd his own in Parliament, and as well for the eaſe of his Conſcience, as the ſatisfaction of his People, promoted an Act, *Commanding all Judges to do Juſtice, notwithſtanding any Writs, Letters or Commands from himſelf; and forbidding thoſe that belong'd to the King, Queen and Prince, to intermeddle in thoſe matters.* But if the beſt and wiſeſt of our Princes, in the ſtrength and maturity of their years, had their failings, and every act proceeding from them that tended to the interruption of Juſtice was a failing, how can it be ſaid that the King in his perſonal capacity, directly or indirectly, may enter into the diſcuſſion of theſe matters, much leſs to determin them according to his will?

But, ſays our Author, *the Law is no better than a Tyrant; general Pardons at the Coronation and in Parliament, are but the bounty of the Prerogative*, &c. *There may be hard caſes:* and citing ſome perverted pieces from *Ariſtotle*'s Ethicks and Politicks, adds, *That when ſomething falls out beſides the general rule, then it is fit that what the Lawmaker has omitted, or where he has err'd by ſpeaking generally, it ſhould be corrected and ſupply'd, as if the Lawmaker were preſent that ordain'd it. The Governor, whether he be one man or more, ought to be Lord of theſe things, whereof it was impoſſible that the Law ſhould ſpeak exactly.* Theſe things are in part true; but our Author makes uſe of them as the Devil dos of Scripture, to ſubvert the truth. There may be ſomething of rigor in the Law, that in ſome caſes may be mitigated; and the Law it ſelf (in relation to *England*) dos ſo far acknowledg it, as to refer much to the conſciences of Jurys, and thoſe who are appointed to aſſiſt them; and the moſt difficult Caſes are refer'd to the Parliament as the only judges that are able to determin them.

Thus

Thus the Statute of 35 *Edw.* III. enumerating the crimes then declar'd to be Treaſon, leaves to future Parliaments to judg what other facts equivalent to them may deſerve the ſame puniſhment: and 'tis a general rule in the Law, which the Judges are ſworn to obſerve, that difficult Caſes ſhould be reſerv'd till the Parliament meet, who are only able to decide them: and if there be any inconvenience in this, 'tis becauſe they do not meet ſo frequently as the Law requires, or by ſiniſter means are interrupted in their ſitting. But nothing can be more abſurd than to ſay, that becauſe the King dos not call Parliaments as the Law and his Oath requires, that power ſhould accrue to him, which the Law and the conſent of the Nation has plac'd in them. SECT. 22.

There is alſo ſuch a thing in the Law as a general or particular Pardon, and the King may in ſome degree be entruſted with the power of giving it, eſpecially for ſuch crimes as merely relate to himſelf, as every man may remit the injurys done to himſelf; but the confeſſion of *Edward* the third, *That the Oath of the Crown had not bin kept by reaſon of the grant of Pardons contrary to Statutes,* and a new Act made, *that all ſuch Charters of Pardon from henceforth granted againſt the Oath of the Crown and the ſaid Statutes, ſhould be held for none,* demonſtrates that this power was not in himſelf, but granted by the Nation, and to be executed according to ſuch rules as the Law preſcrib'd, and the Parliament approv'd. 14 Edw. 3. 15.

Moreover, there have bin many, and ſometimes bloody conteſts for the Crown, upon which the Nation was almoſt equally divided; and it being difficult for them to know, or even for us who have all the partys before us, to judg which was the better ſide, it was underſtood that he who came to be crown'd by the conſent of the People, was acceptable to all: and the queſtion being determin'd, it was no way fit that he ſhould have a liberty to make uſe of the publick Authority then in his hands, to revenge ſuch perſonal injurys as he had, or might ſuppoſe to have receiv'd, which might raiſe new, and perhaps more dangerous troubles, if the Authors of them were ſtill kept in fear of being proſecuted; and nothing could be more unreaſonable than that he ſhould employ his power to the deſtruction of thoſe who had conſented to make him King. This made it a matter of courſe for a King, as ſoon as he was crown'd, to iſſue out a general Pardon, which was no more than to declare, that being now what he was not before, he had no enemy upon any former account. For this reaſon *Lewis* the twelfth of *France,* when he was incited to revenge himſelf againſt thoſe, who in the reign of his Predeceſſor *Charles* the eighth had caus'd him to be impriſon'd with great danger of his life, made this anſwer, *That the King of* France *did not care to revenge the injurys done to the Duke of* Orleans: and the laſt Kiug of *Sweden* ſeem'd no otherwiſe to remember who had oppos'd the Queen's Abdication and his Election, than by conferring honors upon them; becauſe he knew they were the beſt men of the Nation, and ſuch as would be his friends when they ſhould ſee how he would govern, in which he was not deceiv'd. But leſt all thoſe who might come to the Crown of *England,* ſhould not have the ſame prudence and generoſity, the Kings were oblig'd by a Cuſtom of no leſs force than a Law, immediately to put an end to all diſputes, and the inconveniences that might ariſe from them. This did not proceed from the bounty of the Prerogative (which I think is nonſenſe, for tho he that enjoys the Prerogative may have bounty,

CHAP. III. the Prerogative can have none) but from common ſenſe, from the King's obligation, and the care of his own ſafety; and could have no other effect in Law, than what related to his perſon, as appears by the fore-mention'd Statute.

Pardons granted by Act of Parliament are of another nature: For as the King who has no other power than by Law, can no otherwiſe diſpenſe with the crimes committed againſt the Laws, than the Law dos enable him; the Parliament that has the power of making Laws, may intirely aboliſh the crimes, and unqueſtionably remit the puniſhment as they pleaſe.

Tho ſome words of *Ariſtotle*'s Ethicks are without any coherence ſhuffled together by our Author, with others taken out of his Politicks, I do not much except againſt them. No Law made by man can be perfect, and there muſt be in every Nation a power of correcting ſuch defects as in time may ariſe or be diſcover'd. This power can never be ſo rightly plac'd as *in the ſame Hand that has the right of making Laws, whether in one perſon or in many.* If *Filmer* therefore can tell us of a place, where one man, woman or child, however he or ſhe be qualify'd, has the power of making Laws, I will acknowledg that not only the *hard Caſes*, but as many others as he pleaſes, are refer'd to his or her judgment, and that they may give it, whether they have any underſtanding of what they do or not, whether they be drunk or ſober, in their ſenſes or ſtark mad. But as I know no ſuch place, and ſhould not be much concern'd for the ſufferings of a People that might bring ſuch miſery upon themſelves, as muſt accompany an abſolute dependence upon the unruly will of ſuch a creature, I may leave him to ſeek it, and reſt in a perfect aſſurance that he dos not ſpeak of *England*, which acknowledges no other Law than its own; and inſtead of receiving any from Kings, dos to this day obey none, but ſuch as have bin made by our Anceſtors, or our ſelves, and never admitted any King that did not ſwear to obſerve them. And if *Ariſtotle* deſerve credit, the power of altering, mitigating, explaining or correcting the Laws of *England*, is only in the Parliament, *becauſe none but the* Parliament *can make them.*

SECT. XXIII.

Ariſtotle *proves, that no man is to be intruſted with an abſolute Power, by ſhewing that no one knows how to execute it, but ſuch a man as is not to be found.*

OUR Author having falſly cited and perverted the ſenſe of *Ariſtotle*, now brings him in ſaying, *That a perfect Kingdom is that wherein the King rules all according to his own Will.* But tho I have read his books of Government with ſome attention, I can find no ſuch thing in them, unleſs the word which ſignifies *mere* or *abſolute* may be juſtly tranſlated into *perfect*: which is ſo far from *Ariſtotle*'s meaning, that he diſtinguiſhes the abſolute or deſpotical Kingdoms from the Legitimate; and commending the latter, gives no better name than that of *barbarous* to the firſt, which he ſays can agree only with the nature of ſuch Nations as are baſe and ſtupid, little differing from Beaſts; and having no skill to govern,

govern, or courage to defend themſelves, muſt reſign all to the will of one that will take care of them. Yet even this cannot be done, unleſs he that ſhould take that care be wholly exempted from the vices which oblige the others to ſtand in need of it: for otherwiſe 'tis no better than if a Sheep ſhould undertake to govern Sheep, or a Hog to command Swine; *Ariſtotle* plainly ſaying, *That as men are by nature equal, if it were poſſible all ſhould be Magiſtrats.* But that being repugnant to the nature of Government, he finds no other way of ſolving the difficulty, than by *obeying and commanding alternately*; that they may do by turns that which they cannot do all together, and to which no one man has more right than another, becauſe they are all by nature equal. This might be compos'd by a more compendious way, if, according to our Author's doctrin, Poſſeſſion could give a Right. But *Ariſtotle* ſpeaking like a Philoſopher, and not like a publick Enemy to Mankind, examins what is juſt, reaſonable and beneficial to men; that is, what ought to be done, and which being done, is to be accounted juſt, and therefore to be ſupported by good men. But as * *that which is unjuſt in the beginning, can never have the effect of Juſtice*; and it being manifeſtly unjuſt for one or a few men to aſſume a power over thoſe who by nature are equal to them, no ſuch power can be juſt or beneficial to mankind; nor fit to be upheld by good men, if it be unjuſt and prejudicial. In the opinion of *Ariſtotle*, this natural equality continues till vertue makes the diſtinction; which muſt be either ſimply compleat and perfect in it ſelf, ſo that he who is endu'd with it, is a God among men, or relatively, as far as concerns civil Society, and the ends for which it is conſtituted, that is, defence, and the obtaining of Juſtice. This requires a mind unbiaſs'd by paſſion, full of goodneſs and wiſdom, firm againſt all the temptations to ill, that may ariſe from deſire or fear; tending to all manner of good, thro a perfect knowledg and affection to it; and this to ſuch a degree, that he or they have more of theſe vertues and excellencys than all the reſt of the Society, tho computed together. Where ſuch a man is found, he is by nature a King, and 'tis beſt for the Nation where he is that he govern. If a few men, tho equal and alike among themſelves, have the ſame advantages above the reſt of the People, Nature for the ſame reaſon ſeems to eſtabliſh an Ariſtocracy in that place; and the power is more ſafely committed to them, than left in the hands of the multitude. But if this excellency of vertue dos not appear in one, nor in a few men, the right and power is by nature equally lodg'd in all; and to aſſume or appropriate that power to one, or a few men, is unnatural and tyrannical, which in *Ariſtotle*'s language comprehends all that is deteſtable and abominable.

SECT. 23.

Polit. l. 2. c. 1.

Ibid. l. 3.

If any man ſhould think *Ariſtotle* a trifler, for ſpeaking of ſuch a man as can never be found, I anſwer, that he went as far as his way could be warranted by reaſon or nature, and was oblig'd to ſtop there by the defect of his Subject. He could not ſay that the Government of one was ſimply good, when he knew ſo many qualifications were requir'd in the perſon to make it ſo; nor that it is good for a Nation to be under the power of a fool, a coward, or a villain, becauſe 'tis good to be under a man of admirable wiſdom, valor, induſtry and goodneſs; or that the Government of one ſhould be continu'd in ſuch as by chance ſucceed in a Family, becauſe it was given to the firſt who had all the vertues requir'd,

* Quod ab initio injuſtum eſt, nullum poteſt habere juris effectum. *Grot. de jur. bel. & pac. l. 3.*

CHAP. III. tho all the reaſons for which the power was given fail in the Succeſſor; much leſs could he ſay that any Government was good, which was not good for thoſe whoſe good only it was conſtituted to promote.

Moreover, by ſhewing who only is fit to be a Monarch, or may be made ſuch, without violating the Laws of Nature and Juſtice, he ſhews who cannot be one: and he who ſays that no ſuch man is to be found, as according to the opinion of *Ariſtotle* can be a Monarch, dos moſt ridiculouſly alledg his Authority in favor of Monarchs, or the power which ſome amongſt us would attribute to them. If any thing therefore may be concluded from his words, 'tis this, That ſince no power ought to be admitted which is not juſt; that none can be juſt which is not good, profitable to the People, and conducing to the ends for which it is conſtituted; that no man can know how to direct the power to thoſe ends, can deſerve, or adminiſter it, unleſs he dos ſo far excel all thoſe that are under him in wiſdom, juſtice, valor and goodneſs, as to poſſeſs more of thoſe vertues than all of them: I ſay, if no ſuch man or ſucceſſion of men be found, no ſuch power is to be granted to any man, or ſucceſſion of men. But if ſuch power be granted, the Laws of nature and reaſon are overthrown, and the ends for which Societys are conſtituted, utterly perverted, which neceſſarily implys an annihilation of the Grant. And if a Grant ſo made by thoſe who have a right of ſetting up a Government amongſt themſelves, do periſh thro its own natural iniquity and perverſity, I leave it to any man, whoſe underſtanding and manners are not ſo intirely corrupted as thoſe of our Author, to determin what name ought to be given to that perſon, who not excelling all others in Civil and Moral Vertues, in the proportion requir'd by *Ariſtotle*, dos uſurp a power over a Nation, and what obedience the People owe to ſuch a one. But if his opinion deſerve our regard, the King by having thoſe vertues is *Omnium Optimus*, and the beſt guide to the People, * *to lead them to happineſs by the ways of vertue.* And he who aſſumes the ſame power, without the qualifications requir'd, is *Tyrannus omnium peſſimus*, leading the People to all manner of ill, and in conſequence to deſtruction.

* Ad ſummum bonum ſecundum virtutem. *Ariſt. Pol.*

SECT. XXIV.

The Power of Auguſtus Ceſar *was not given, but uſurp'd.*

OUR Author's next inſtance is ingeniouſly taken from the *Romans*, *Who*, he ſays, *tho they were a People greedy of Liberty, freed* Auguſtus *from the neceſſity of Laws.* If it be true, as he affirms, that ſuch a Prerogative is inſtituted only for the preſervation of Liberty, they who are moſt greedy of it, ought to be moſt forward in eſtabliſhing that which defends it beſt. But if the weight laid upon the words *greedy of Liberty*, &c. render his memory and judgment liable to cenſure, the unpardonable prevarication of citing any act done by the *Romans* in the time of *Auguſtus*, as done freely, ſhews him to be a man of no faith. *Omnium jura in ſe traxerat*, ſays *Tacitus* of *Auguſtus*; nothing was confer'd upon him, he took all to himſelf; there could be nothing of right in that which was wholly uſurp'd, and neither the People or the Senat could do any thing

thing freely, whilſt they were under the power of a mad corrupted Soldiery, who firſt betray'd, and then ſubdu'd them. The greateſt part of the Senat had fall'n at the battel of *Pharſalia*, others had bin glean'd up in ſeveral places, the reſt deſtroy'd by the Proſcriptions; and that which then retain'd the name of a Senat, was made up chiefly of thoſe who had bin his Miniſters, in bringing the moſt miſerable ſlavery upon their own Country. The *Roman* Liberty, and that bravery of ſpirit by which it had bin maintain'd, was not only aboliſh'd, but almoſt forgotten. All conſideration of Law and Right was trampl'd under foot; and none could diſpute with him, who by the power of the ſword had ſeiz'd the Authority both of the Senat and People. Nothing was ſo extravagant, that might not be extorted by the inſolent violence of a Conqueror, who had thirty mercenary Legions to execute his Commands. The uncorrupted part of the People that had eſcap'd the ſword of *Julius*, had either periſh'd with *Hirtius* and *Panſa*, *Brutus* and *Caſſius*, or bin deſtroy'd by the deteſtable *Triumvirate*. Thoſe that remain'd could loſe nothing by a verbal reſignation of their Liberty, which they had neither ſtrength nor courage to defend. The Magiſtracys were poſſeſt by the Creatures of the Tyrant; and the People were compos'd of ſuch as were either born under ſlavery, and accuſtom'd to obey, or remain'd under the terror of thoſe Arms that had conſum'd the Aſſertors of their Liberty. Our Author ſtanding in need of ſome *Roman* Example, was oblig'd to ſeek it in an age, when the Laws were ſubverted, Vertue extinguiſh'd, Injuſtice plac'd in the Throne, and ſuch as would not be of the ſame ſpirit, expos'd to the utmoſt cruelty. This was the time when the *Sovereign Majeſty* ſhin'd in glory; and they who had rais'd it above the Law, made it alſo the object of their Religion, by adoring the Statues of their Oppreſſor. The corruption of this Court ſpread it ſelf over the beſt part of the World; and reduc'd the Empire to that irrecoverable weakneſs in which it languiſh'd and periſh'd. This is the ſtate of things that pleaſes *Filmer*, and thoſe that are like him, who for the introduction of the ſame among us, recommend ſuch an elevation of the Sovereign Majeſty, as is moſt contrary to the Laws of God and Men, abhor'd by all generous Nations, and moſt eſpecially by our Anceſtors, who thought nothing too dear to be hazarded in the defence of themſelves and us from it. SECT. 25.

SECT. XXV.

The Regal Power was not the firſt in this Nation; nor neceſſarily to be continu'd, tho it had bin the firſt.

TRUTH being uniform in it ſelf, thoſe who deſire to propagate it for the good of Mankind, lay the foundations of their reaſonings in ſuch Principles, as are either evident to common ſenſe, or eaſily prov'd: but Cheats and Impoſtors delighting in obſcurity, ſuppoſe things that are dubious and falſe, and think to build one falſhood upon another; and our Author can find no better way to perſuade us, that all our Privileges and Laws are from the King, than by ſaying, *That the firſt Power was the Kingly Power, which was both in this and all other Nations in*

CHAP. III. *in the world, long before any Laws or any other kind of Government was thought of; from whence we muſt neceſſarily infer, that the common Law, or common Cuſtoms of this Land were originally the Laws and Commands of the King.* But denying both theſe points, I affirm,

1. That there was a power to make Kings before there was any King.

2. Tho Kings had bin the firſt created Magiſtrats in all places (as perhaps they were in ſome it dos not follow) that they muſt continue for ever, or that Laws are from them.

To the firſt; I think no man will deny, that there was a People at *Babylon*, before *Nimrod* was King of that place. This People had a Power; for no number of men can be without it: Nay this People had a power of making *Nimrod* King, or he could never have bin King. He could not be King by ſucceſſion, for the Scripture ſhews him to have bin the firſt. He was not King by the right of Father, for he was not their Father, *Chuſh*, *Cham*, with his elder Brothers and Father *Noah* being ſtill living; and, which is worſt of all, were not Kings: for if they who liv'd in *Nimrod*'s time, or before him, neither were Kings, nor had Kings, he that ought to have bin King over all by the right of nature (if there had bin any ſuch thing in nature) was not King. Thoſe who immediately ſucceeded him, and muſt have inherited his right, if he had any, did not inherit or pretend to it: and therefore he that ſhall now claim a right from nature as Father of a People, muſt ground it upon ſomething more certain than *Noah*'s right of reigning over his Children, or it can have no ſtrength in it.

Moreover, the Nations who in and before the time of *Nimrod* had no Kings, had Power, or elſe they could have perform'd no Act, nor conſtituted any other Magiſtrate to this day, which is abſurd. There was therefore a power in Nations before there were Kings, or there could never have bin any; and *Nimrod* could never have bin King, if the People of *Babylon* had not made him King, which they could not have done if they had not had a power of making him ſo. 'Tis ridiculous to ſay he made himſelf King, for tho he might be ſtrong and valiant, he could not be ſtronger than a multitude of men. That which forces muſt be ſtronger than that which is forc'd; and if it be true, according to the antient ſaying, that *Hercules* himſelf is not ſufficient to encounter two, 'tis ſure more impoſſible for one man to force a multitude, for that muſt be ſtronger than he. If he came in by perſuaſion, they who were perſuaded, were perſuaded to conſent that he ſhould be King. That Conſent therefore made him King. But, *Qui dat eſſe, dat modum eſſe:* They who made him King, made him ſuch a King as beſt pleas'd themſelves. He had therefore nothing but what was given: his greatneſs and power muſt be from the multitude who gave it: and their Laws and Libertys could not be from him; but their Libertys were naturally inherent in themſelves, and their Laws were the product of them.

There was a People that made *Romulus* King. He did not make or beget that People, nor, for any thing we know, one man of them. He could not come in by inheritance, for he was a Baſtard, the Son of an unknown man; and when he dy'd, the right that had bin confer'd upon him reverted to the People, who, according to that right, choſe *Numa*, *Hoſtilius*, *Martius*, *Tarquinius Priſcus*, and *Servius*, all Strangers to his blood, and without any other right than what was beſtow'd upon them: and *Tarquinius Superbus*, who invaded the Throne * *without the command*

* Sine juſſu populi. *T. Liv. l.* 1.

of

of the People, was ejected, and the Government of Kings aboliſh'd by the ſame power that had created it. SECT. 25.

We know not certainly by what Law *Moſes*, and the Judges created by the advice of *Jethro*, govern'd the *Iſraelites*; but may probably conjecture it to have bin by that Law which God had written in the hearts of mankind; and the People ſubmitted to the judgment of good and wiſe men, tho they were under no coercive Power. But 'tis certain they had a Law and a regular Magiſtracy under which they liv'd, four hundred years before they had a King, for *Saul* was the firſt. This Law was not therefore from the King, nor by the King; but the King was choſen and made by the People, according to the liberty they had by the Law, tho they did not rightly follow the rules therein preſcrib'd, and by that means brought deſtruction upon themſelves.

The Country in which we live lay long conceal'd under obſcure barbarity, and we know nothing of the firſt Inhabitants, but what is involv'd in fables that leave us ſtill in the dark. *Julius Ceſar* is the firſt who ſpeaks diſtinctly of our affairs, and gives us no reaſon to believe there was any Monarchy then eſtabliſh'd amongſt us. *Caſſivellaunus* was occaſionally choſen by the Nations that were moſt expos'd to the violence of the *Romans*, for the management of thoſe wars againſt them. By others we hear of *Boadicia*, *Arviragus*, *Galgacus*, and many more ſet up afterwards when need requir'd; but we find no footſteps of a regular Succeſſion either by inheritance or election. And as they had then no Kings, or any other general Magiſtrate, that can be ſaid to be equivalent to a King, they might have had none at all unleſs they had thought fit. *Tacitus* mentions a ſort of Kings, us'd by the *Romans* to keep † Nations in ſervitude to them: and tho it were true that there had bin ſuch a man as *Lucius*, and he one of this ſort, he is to be accounted only as a *Roman* Magiſtrate, and ſignifys no more to our diſpute, than if he had bin call'd Proconſul, Pretor, or by any other name. However there was no ſeries of them: that which was temporary and occaſional, depended upon the will of thoſe, who thinking there was occaſion, created ſuch a Magiſtrate, and omitted to do ſo, when the occaſion ceas'd, or was thought to ceaſe; and might have had none at all, if they had ſo pleas'd. The Magiſtracy therefore was from them, and depenedd upon their will.

Cæſ. Comment. l. 5.

We have already mention'd the Hiſtorys of the *Saxons*, *Danes* and *Normans*, from which Nations, together with the *Britans*, we are deſcended: and finding that they were ſevere Aſſertors of their Libertys, acknowledg'd no human Laws but their own, receiv'd no Kings but ſuch as ſwore to obſerve them, and depos'd thoſe who did not well perform their Oaths and Duty, 'tis evident that their Kings were made by the People according to the Law; and that the Law, by which they became what they were, could not be from themſelves. Our Anceſtors were ſo fully convinc'd that in the creation of Kings they exercis'd their own right, and were only to conſider what was good for themſelves, that without regard to the memory of thoſe who had gone before, they were accuſtom'd to take ſuch as ſeem'd moſt like, wiſely, juſtly and gently to perform their office; refus'd thoſe that were ſuſpected of pride, cruelty, or any other vice that might bring prejudice upon the Publick, what title ſoever they pretended; and remov'd ſuch as had bin plac'd in the Throne, if they did not anſwer the opinion conceiv'd of

† Inter inſtrumenta ſervitutis reges habuere. *C. Tacit.*

CHAP. III. their vertue; which I take to be a manner of proceeding that agrees better with the quality of Maſters, making Laws and Magiſtrats for themſelves, than of Slaves receiving ſuch as were impos'd upon them.

2. To the ſecond. Tho it ſhould be granted, that all Nations had at the firſt bin govern'd by Kings, it were nothing to the queſtion; for no man or number of Men was ever oblig'd to continue in the errors of his Predeceſſors. The Authority of Cuſtom as well as of Law (I mean in relation to the Power that made it to be) conſiſts only in its rectitude: And the ſame reaſon which may have induc'd one or more Nations to create Kings, when they knew no other form of Government, may not only induce them to ſet up another, if that be found inconvenient to them, but proves that they may as juſtly do ſo, as remove a man who performs not what was expected from him. If there had bin a Rule given by God, and written in the minds of men by nature, it muſt have bin from the beginning, univerſal and perpetual; or at leaſt muſt have bin obſerv'd by the wiſeſt and beſt inſtructed Nations: which not being in any meaſure (as I have prov'd already) there can be no reaſon, why a polite People ſhould not relinquiſh the errors committed by their Anceſtors in the time of their barbariſm and ignorance, and why they ſhould not do it in matters of Government, as well as in any other thing relating to life. Men are ſubject to errors, and 'tis the work of the beſt and wiſeſt to diſcover and amend ſuch as their Anceſtors may have committed, or to add perfection to thoſe things which by them have bin well invented. This is ſo certain, that whatſoever we enjoy beyond the miſery in which our barbarous Anceſtors liv'd, is due only to the liberty of correcting what was amiſs in their practice, or inventing that which they did not know: and I doubt whether it be more brutiſh to ſay we are oblig'd to continue in the Idolatry of the *Druids*, with all the miſerys and follys that accompany the moſt ſavage barbarity; or to confeſs, that tho we have a right to depart from theſe, yet we are for ever bound to continue the Government they had eſtabliſh'd, whatever inconveniences might attend it. *Tertullian* diſputing with the *Pagans*, who objected the novelty of the Chriſtian Religion, troubled not himſelf with refuting that error; * but proving Chriſtianity to be good and true, he thought he had ſufficiently prov'd it to be antient. A wiſe Architect may ſhew his skill, and deſerve commendation for building a poor houſe of vile materials, when he can procure no better; but he no way ought to hinder others from erecting more glorious Fabricks if they are furniſh'd with the means requir'd. Beſides, ſuch is the imperfection of all human Conſtitutions, that they are ſubject to perpetual fluctuation, which never permits them to continue long in the ſame condition: Corruptions ſlide in inſenſibly; and the beſt Orders are ſometimes ſubverted by malice and violence: ſo that he who only regards what was done in ſuch an age, often takes the corruption of the State for the inſtitution, follows the worſt example, thinks that to be the firſt that is the moſt antient he knows; and if a brave People ſeeing the original defects of their Government, or the corruption into which it may be fallen, do either correct and reform what may be amended, or aboliſh that which was evil in the inſtitution, or ſo perverted, that it cannot be reſtor'd to integrity, theſe men impute it to ſedition, and blame thoſe actions, which of all that can be perform'd by men are the moſt glorious. We are not therefore ſo much to inquire after

* Nullum tempus, nulla præſcriptio occurrit veritati. *Tertul.* Id antiquius quod verius. *Ibid.*

that

that which is moſt antient, as that which is beſt, and moſt conducing to the good ends to which it was directed. As Governments were inſtituted for the obtaining of Juſtice, and (as our Author ſays) the preſervation of Liberty, we are not to ſeek what Government was the firſt, but what beſt provides for the obtaining of Juſtice, and the preſervation of Liberty. For whatſoever the Inſtitution be, and how long ſoever it may have laſted, 'tis void, if it thwarts, or dos not provide for the end of its eſtabliſhment. If ſuch a Law or Cuſtom therefore as is not good in it ſelf, had in the beginning prevail'd in all parts of the world (which in relation to abſolute or any kind of Monarchy is not true) it ought to be aboliſh'd; and if any man ſhould ſhew himſelf wiſer than others by propoſing a Law or Government, more beneficial to mankind than any that had bin formerly known, providing better for Juſtice and Liberty than all others had done, he would merit the higheſt veneration. If any man ask, who ſhall be Judg of that rectitude or pravity which either authoriſes or deſtroys a Law? I anſwer, that as this conſiſts not in formalitys and nicetys, but in evident and ſubſtantial truths, there is no need of any other Tribunal than that of common ſenſe, and the light of nature, to determin the matter: and he that travels thro *France*, *Italy*, *Turky*, *Germany* and *Switzerland*, without conſulting *Bartolus* or *Baldus*, will eaſily underſtand whether the Countrys that are under the Kings of *France* and *Spain*, the Pope and the Great *Turk*, or ſuch as are under the care of a well-regulated Magiſtracy, do beſt enjoy the benefits of Juſtice and Liberty. 'Tis as eaſily determin'd whether the *Grecians* when *Athens* and *Thebes* flouriſh'd were more free than the *Medes*; whether Juſtice was better adminiſter'd by *Agathocles*, *Dionyſius* and *Phalaris*, than by the legal Kings and regular Magiſtrats of *Sparta*; or whether more care was taken that Juſtice and Liberty might be preſerv'd by *Tiberius*, *Caligula*, *Claudius*, *Nero* and *Vitellius*, than by the Senat and People of *Rome* whilſt the Laws were more powerful than the commands of men. The like may be ſaid of particular Laws, as thoſe of *Nabuchodonoſor* and *Caligula*, for worſhipping their Statues; our Acts of Parliament againſt Hereticks and Lollards, with the Statutes and Orders of the Inquiſition which is call'd the Holy Office. And if that only be a Law which is *Sanctio recta*, *jubens honeſta*, *prohibens contraria*, the meaneſt underſtanding, if free from paſſion, may certainly know that ſuch as theſe cannot be Laws, by what Authority ſoever they were enacted; and that the uſe of them, and others like to them, ought to be aboliſh'd for their turpitude and iniquity. Infinite examples of the like nature might be alledg'd, as well concerning divine as human things. And if there be any Laws which are evil, there cannot be an inconteſtable rectitude in all; and if not in all, it concerns us to examin where it is to be found. Laws and Conſtitutions ought to be weigh'd; and whilſt all due reverence is paid to ſuch as are good, every Nation may not only retain in it ſelf a power of changing or aboliſhing all ſuch as are not ſo, but ought to exerciſe that Power according to the beſt of their underſtanding; and in the place of what was either at firſt miſtaken, or afterwards corrupted, to conſtitute that which is moſt conducing to the eſtabliſhment of Juſtice and Liberty.

SECT. 25.

But ſuch is the condition of mankind, that nothing can be ſo perfectly fram'd as not to give ſome teſtimony of human imbecillity, and frequently to ſtand in need of reparations and amendments. Many things are unknown to the wiſeſt, and the beſt men can never wholly deveſt themſelves of paſſions and affections. By this means the beſt and wiſeſt are

CHAP. III.

ſometimes led into Error, and ſtand in need of Succeſſors like to themſelves, who may find remedys for the faults they have committed; and nothing can or ought to be permanent but that which is perfect. No natural body was ever ſo well temper'd and organiz'd, as not to be ſubject to diſeaſes, wounds or other accidents, and to need medicins and other occaſional helps as well as nouriſhment and exerciſe: and he who under the name of Innovation would deprive Nations of the like, dos, as much as lies in him, condemn them all to periſh by the defects of their own foundations. Some men obſerving this, have propos'd a neceſſity of reducing every State once in an age or two, to the integrity of its firſt principle: but they ought to have examin'd, whether that principle be good or evil, or ſo good that nothing can be added to it, which none ever was; and this being ſo, thoſe who would admit of no change would render Errors perpetual, and depriving Mankind of the benefits of Wiſdom, Induſtry, Experience, and the right uſe of Reaſon, oblige all to continue in the miſerable barbarity of their Anceſtors, which ſutes better with the nature of a Wolf than that of a Man.

Diſcorſ. di Macchiav. l. 2.

Thoſe who are of better underſtanding, weigh all things, and often find reaſon to abrogate that which their fathers, according to the meaſure of the knowledg they had, or the ſtate of things among them, had rightly inſtituted, or to reſtore that which they had abrogated; and there can be no greater mark of a moſt brutiſh ſtupidity, than for men to continue in an evil way, becauſe their fathers had brought them into it. But if we ought not too ſtrictly to adhere to our own Conſtitutions, thoſe of other Nations are leſs to be regarded by us; for the Laws that may be good for one People are not for all, and that which agrees with the manners of one Age, is utterly abhorrent from thoſe of another. It were abſurd to think of reſtoring the Laws of *Lycurgus* to the preſent inhabitants of *Peloponneſus*, who are accuſtom'd to the moſt abject ſlavery. It may eaſily be imagin'd, how the *Romans*, *Sabins* and *Latins*, now under the tyranny of the Pope, would reliſh ſuch a diſciplin as flouriſh'd among them after the expulſion of the *Tarquins*; and it had bin no leſs prepoſterous to give a liberty to the *Parthians* of governing themſelves, or for them to aſſume it, than to impoſe an abſolute Monarch upon the *German* Nation. *Titus Livius* having obſerv'd this, ſays, that if a popular Government had bin ſet up in *Rome* immediately upon the building of the City; and if that fierce people, which was compos'd of unruly ſhepherds, herdſmen, fugitive ſlaves, and out law'd perſons, who could not ſuffer the Government under which they were born, had come to be incited by turbulent Orators, they would have brought all into confuſion: whereas that boiſterous humor being gradually temper'd by diſciplin under *Romulus*, or taught to vent its fury againſt foreign enemys, and ſoften'd by the peaceable reign of *Numa*, a new Race grew up, which being all of one blood, contracted a love to their Country, and became capable of Liberty, which the madneſs of their laſt King, and the leudneſs of his Son, gave them occaſion to reſume. If this was commendable in them, it muſt be ſo in other Nations. If the *Germans* might preſerve their Liberty, as well as the *Parthians* ſubmit themſelves to abſolute Monarchy; 'tis as lawful for the deſcendents of thoſe *Germans* to continue in it, as for the Eaſtern Nations to be ſlaves. If one Nation may juſtly chuſe the Government that ſeems beſt to them, and continue or alter it according to the changes of times and things, the ſame right muſt belong to others. The great variety of Laws that are or have bin in the world, proceeds from

Hiſt. l. 2.

from this; and nothing can better ſhew the wiſdom and vertue, or the vices and folly of Nations, than the uſe they make of this right: they have bin glorious or infamous, powerful or deſpicable, happy or miſerable, as they have well or ill executed it. SECT. 25.

If it be ſaid that the Law given by God to the *Hebrews*, proceeding from his wiſdom and goodneſs, muſt needs be perfect and obligatory to all Nations: I anſwer, that there is a ſimple and a relative perfection; the firſt is only in God, the other in the things he has created. *He ſaw that they were good*; which can ſignify no more than that they were good in their kind, and ſuted to the end for which he deſign'd them. For if the perfection were abſolute, there could be no difference between an Angel and a Worm; and nothing could be ſubject to change or death, for that is imperfection. This relative perfection is ſeen alſo by his Law given to mankind in the perſons of *Adam* and *Noah*. It was good in the kind, fit for thoſe times, but could never have bin enlarg'd or alter'd, if the perfection had bin ſimple; and no better evidence can be given to ſhew that it was not ſo, than that God did afterwards give one much more full and explicit to his People. This Law alſo was peculiarly applicable to that People and Seaſon; for if it had bin otherwiſe, the Apoſtles would have oblig'd Chriſtians to the intire obſervation of it, as well as to abſtain from idolatry, fornication and blood. But if all this be not ſo, then their judicial Law, and the form of their Commonwealth muſt be receiv'd by all; no human Law can be of any value; we are all Brethren, no man has a prerogative above another; Lands muſt be equally divided amongſt all; Inheritances cannot be alienated for above fifty years; no man can be rais'd above the reſt unleſs he be call'd by God, and enabled by his Spirit to conduct the People: When this man dies, he that has the ſame Spirit muſt ſucceed, as *Joſhua* did to *Moſes*, and his Children can have no title to his Office: when ſuch a man appears, a *Sanhedrim* of ſeventy men choſen out of the whole People, are to judg ſuch cauſes as relate to themſelves, whilſt thoſe of greater extent and importance are refer'd to the General Aſſemblys. Here is no mention of a King, and conſequently, if we muſt take this Law for our pattern, we cannot have one: If the point be driven to the utmoſt, and the precept of *Deuteronomy*, where God permitted them to have a King, if they thought fit, when they came into the promis'd Land, be underſtood to extend to all Nations, every one of them muſt have the ſame liberty of taking their own time, chuſing him in their own way, dividing the Kingdom, having no King, and ſetting up other Governors when they pleaſe, as before the Election of *Saul*, and after the return from the Captivity: and even when they have a King, he muſt be ſuch a one as is deſcrib'd in the ſame Chapter, who no more reſembles the Sovereign Majeſty that our Author adores, and agrees as little with his Maxims, as a Tribun of the Roman People. Gen. 1.

We may therefore conclude, that if we are to follow the Law of *Moſes*, we muſt take it with all the appendages; a King can be no more, and no otherwiſe than he makes him: for whatever we read of the Kings they had, were extreme deviations from it. No Nation can make any Law, and our Lawyers burning their Books may betake themſelves to the ſtudy of the Pentateuch, in which tho ſome of them may be well vers'd, yet probably the profit ariſing from thence will not be very great.

CHAP. III. But if we are not oblig'd to live in a conformity to the Law of *Moſes*, every People may frame Laws for themſelves, and we cannot be deny'd the right that is common to all. Our Laws were not ſent from Heaven, but made by our Anceſtors according to the light they had, and their preſent occaſions. We inherit the ſame right from them; and, as we may without vanity ſay that we know a little more than they did, if we find our ſelves prejudic'd by any Law that they made, we may repeal it. The ſafety of the People was their ſupreme Law, and is ſo to us: neither can we be thought leſs fit to judg what conduces to that end, than they were. If they in any Age had bin perſuaded to put themſelves under the power, or, in our Author's phraſe, under the ſovereign Majeſty of a child, a fool, a mad or deſperately wicked perſon, and had annex'd the right confer'd upon him to ſuch as ſhould ſucceed, it had not bin a *juſt and right Sanction*; and having none of the qualitys eſſentially belonging to a Law, could not have the effect of a Law. It cannot be for the good of a People to be govern'd by one, who by nature ought to be govern'd, or by age or accident is render'd unable to govern himſelf. The publick intereſts, and the concernments of private men in their lands, goods, libertys and lives (for the preſervation of which, our Author ſays, the regal Prerogative is only conſtituted) cannot be preſerv'd by one who is tranſported by his own paſſions or follys, a ſlave to his luſts and vices; or, which is ſometimes worſe, govern'd by the vileſt of men and women who flatter him in them, and puſh him on to do ſuch things as even they would abhor, if they were in his place. The turpitude and impious madneſs of ſuch an act muſt neceſſarily make it void, by overthrowing the ends for which it was made, ſince that juſtice which was ſought cannot be obtain'd, nor the evils that were fear'd prevented; and they for whoſe good it was intended, muſt neceſſarily have a right of aboliſhing it. This might be ſufficient for us, tho our Anceſtors had enſlav'd themſelves. But, God be thank'd, we are not put to that trouble: We have no reaſon to believe we are deſcended from ſuch fools and beaſts, as would willingly caſt themſelves and us into ſuch an exceſs of miſery and ſhame, or that they were ſo tame and cowardly to be ſubjected by force or fear. We know the value they ſet upon their Libertys, and the courage with which they defended them: and we can have no better example to incourage us, never to ſuffer them to be violated or diminiſh'd.

SECT. XXVI.

Tho the King may be entruſted with the power of chuſing Judges, yet that by which they act is from the Law.

I Confeſs that no Law can be ſo perfect, *to provide exactly for every caſe that may fall out, ſo as to leave nothing to the diſcretion of the Judges*, who in ſome meaſure are to interpret them: But *that Laws or Cuſtoms are ever few, or that the paucity is the reaſon that they cannot give ſpecial rules, or that Judges do reſort to thoſe Principles or Common Law Axioms, whereupon former Judgments in caſes ſomething alike have bin given*

given by former Judges, who all receive their Authority from the King in his right to give Sentence, I utterly deny; and affirm, SECT. 26.

1. That in many places, and particularly in *England*, the Laws are ſo many, that the number of them has introduc'd an uncertainty and confuſion, which is both dangerous and troubleſom; and the infinite variety of adjudg'd caſes thwarting and contradicting each other, has render'd theſe difficultys inextricable. *Tacitus* imputes a great part of the miſerys ſuffer'd by the *Romans* in his time to this abuſe, and tells us, that * *the Laws grew to be innumerable in the worſt and moſt corrupt ſtate of things,* and that Juſtice was overthrown by them. By the ſame means in *France*, *Italy*, and other places, where the Civil Law is render'd municipal, Judgments are in a manner arbitrary; and tho the intention of our Laws be juſt and good, they are ſo numerous, and the volumes of our Statutes with the Interpretations and adjudg'd Caſes ſo vaſt, that hardly any thing is ſo clear and fix'd, but men of wit and learning may find what will ſerve for a pretence to juſtify almoſt any judgment they have a mind to give. Whereas the Laws of *Moſes*, as to the Judicial part, being ſhort and few, Judgments were eaſy and certain; and in *Switzerland*, *Sweden*, and ſome parts of *Denmark*, the whole Volume that contains them may be read in few hours, and by that means no injuſtice can be done which is not immediately made evident.

2. Axioms are not rightly grounded upon judg'd Caſes, but Caſes are to be judg'd according to Axioms: the certain is not prov'd by the uncertain, but the uncertain by the certain; and every thing is to be eſteem'd uncertain till it be prov'd to be certain. Axioms in Law are, as in Mathematicks, evident to common ſenſe; and nothing is to be taken for an Axiom, that is not ſo. *Euclid* dos not prove his Axioms by his Propoſitions, but his Propoſitions, which are abſtruſe, by ſuch Axioms as are evident to all. The Axioms of our Law do not receive their Authority from *Coke* and *Hales*, but *Coke* and *Hales* deſerve praiſe for giving judgment according to ſuch as are undeniably true.

3. The Judges reeeive their Commiſſions from the King; and perhaps it may be ſaid, that the Cuſtom of naming them is grounded upon a right with which he is entruſted; but their power is from the Law, as that of the King alſo is. For he who has none originally in himſelf, can give none unleſs it be firſt confer'd upon him. I know not how he can well perform his Oath to govern according to Law, unleſs he execute the power with which he is entruſted, in naming thoſe men to be Judges, whom in his conſcience, and by the advice of his Council, he thinks the beſt and ableſt to perform that Office: But both he and they are to learn their duty from that Law, by which they are, and which allots to every one his proper work. As the Law intends that men ſhould be made Judges for their integrity and knowledg in the Law, and that it ought not to be imagin'd that the King will break his truſt by chuſing ſuch as are not ſo, till the violation be evident, nothing is more reaſonable than to intend that the Judges ſo qualify'd ſhould inſtruct the King in matters of Law. But that he who may be a child, over-ag'd, or otherwiſe ignorant and uncapable, ſhould inſtruct the Judges, is equally abſurd, as for a blind man to be a guide to thoſe who have the beſt eyes; and ſo abhorrent from the meaning of the Law, that the Judges (as I ſaid be-

* Et in corruptiſſima Republica plurimæ Leges.

fore)

CHAP. III.

fore) are ſworn to do juſtice according to the Laws, without any regard to the King's words, letters or commands. If they are therefore to act according to a ſet rule, from which they may not depart what command ſoever they receive, they do not act by a power from him, but by one that is above both. This is commonly confeſt; and tho ſome Judges have bin found in ſeveral ages, who in hopes of reward and preferment have made little account of their Oath, yet the ſucceſs that many of them have had, may reaſonably deter others from following their example: and if there are not more inſtances in this kind, no better reaſon can be given, than that (*a*) Nations do frequently fail, by being too remiſs in aſſerting their own rights or puniſhing offenders, and hardly ever err on the ſeverer ſide.

4. Judgments are variouſly given in ſeveral States and Kingdoms, but he who would find one where they lie in the breaſt of the King, muſt go at leaſt as far as *Morocco*. Nay, the Embaſſador who was lately here from that place, deny'd that they were abſolutely in him. However 'tis certain that in *England*, according to the Great Charter, * *Judgments are paſs'd by equals:* no man can be impriſon'd, diſſeiz'd of his Freehold, depriv'd of Life or Limb, † *unleſs by the ſentence of his Peers.* The Kings of *Judah* did ‖ *judg and were judg'd*; and the Judgments they gave were in and with the Sanhedrin. In *England* the Kings do not judg, but are judg'd: and *Bracton* ſays, ‖‖ *That in receiving juſtice the King is equal to another man*; which could not be, if judgments were given by him, and he were exempted from the judgment of all by that Law, which has put all judgments into the hands of the People. This power is executed by them in grand or petty Jurys, and the Judges are aſſiſtants to them in explaining the difficult points of the Law, in which 'tis preſum'd they ſhould be learned. The ſtrength of every judgment conſiſts in the verdict of theſe Jurys, which the Judges do not give, but pronounce or declare: and the ſame Law that makes good a verdict given contrary to the advice or direction of the Judges, expoſes them to the utmoſt penaltys, if upon their own heads, or a command from the King, they ſhould preſume to give a Sentence, without or contrary to a Verdict; and no pretenſions to a power of interpreting the Law can exempt them if they break it. The power alſo with which the Judges are entruſted, is but of a moderate extent, and to be executed *bona fide*. Prevarications are capital, as they prov'd to *Treſilian*, *Empſon*, *Dudley*, and many others. Nay even in ſpecial Verdicts, the Judges are only aſſiſtants to the Jurys who find it ſpecially, and the Verdict is from them; tho the Judges having heard the point argu'd, declare the ſenſe of the Law thereupon. Wherefore if I ſhould grant that the King might perſonally aſſiſt in judgments, his work could only be to prevent frauds, and by the advice of the Judges to ſee that the Laws be duly executed, or perhaps to inſpect their behaviour. If he has more than this, it muſt be by virtue of his politick capacity, in which he is underſtood to be always preſent in the principal Courts, where Juſtice is always done whether he who wears the Crown be young or old, wiſe or ignorant, good or bad, or whether he like or diſlike what is done.

(*a*) Jure igitur plectimur; niſi enim multorum impunita ſcelera tuliſſemus, nunquam ad unum tanta perveniſſet licentia. *Cicero.*

* Judicia fiunt per pares. *Mag. Chart.*

† Nisi per judicium parium ſuorum. *Ibid.*

‖ Judicabant & judicabantur. *Maimonid.*

‖‖ In juſtitia recipienda rex cuilibet ex plebe æqualis eſt.

More-

Moreover, as Governments are inſtituted for the obtaining of Juſtice, and the King is in a great meaſure entruſted with the power of executing it, 'tis probable that the Law would have requir'd his preſence in the diſtribution, if there had bin but one Court; that at the ſame time he could be preſent in more than one; that it were certain he would be guilty of no miſcarriages; that all miſcarriages were to be puniſh'd in him as well as in the Judges; or that it were certain he ſhould always be a man of ſuch wiſdom, induſtry, experience and integrity, as to be an aſſiſtance to, and a watch over thoſe who are appointed for the adminiſtration of Juſtice. But there being many Courts ſitting at the ſame time of equal Authority, in ſeveral places far diſtant from each other; it being impoſſible for the King to be preſent in all; there being no manner of aſſurance that the ſame or greater miſcarriages may not be committed in his preſence than in his abſence, by himſelf than others; no opportunity of puniſhing every delict in him, without bringing the Nation into ſuch diſorder, as may be of more prejudice to the publick than an injury done to a private man; the Law which intends to obviate offences, or to puniſh ſuch as cannot be obviated, has directed, that thoſe men ſhould be choſen who are moſt knowing in it, impoſes an Oath upon them, not to be diverted from the due courſe of juſtice by fear or favor, hopes or reward, particularly by any command from the King; and appoints the ſevereſt puniſhments for them if they prove falſe to God and their Country. SECT. 26.

If any man think that the words cited from *Bracton* by our Author upon the queſtion, *Quis primo & principaliter poſſit & debeat judicare*, &c. *Sciendum eſt quod Rex & non alius, ſi ſolus ad hæc ſufficere poſſit; cum ad hoc per virtutem Sacramenti teneatur*, are contrary to what I have ſaid, I deſire the context may be conſider'd, that his opinion may be truly underſtood, tho the words taken ſimply and nakedly may be enough for my purpoſe. For 'tis ridiculous to infer that the King has a right of doing any thing, upon a ſuppoſition that 'tis impoſſible for him to do it. He therefore who ſays the King cannot do it, ſays it muſt be done by others, or not at all. But having already prov'd that the King, merely as King, has none of the qualitys requir'd for judging all or any caſes, and that many Kings have all the defects of age and perſon that render men moſt unable and unfit to give any Sentence; we may conclude, without contradicting *Bracton*, that no King as King has a power of judging, becauſe ſome of them are utterly unable and unfit to do it; and if any one has ſuch a power, it muſt be confer'd upon him by thoſe who think him able and fit to perform that work. When *Filmer* finds ſuch a man, we muſt inquire into the extent of that power which is given to him; but this would be nothing to his general propoſition, for he himſelf would hardly have infer'd, that becauſe a power of judging in ſome caſes was confer'd upon one Prince on account of his fitneſs and ability, therefore all of 'em, however unfit and unable, have a power of deciding all caſes. Beſides, if he believe *Bracton*, this power of judging is not inherent in the King, but incumbent upon him by virtue of his Oath, which our Author endeavours to enervate and annul. But as that Oath is grounded upon the Law, and the Law cannot preſume impoſſibilitys and abſurditys, it cannot intend, and the Oath cannot require, that a man ſhould do that which he is unable and unfit to do. Many Kings are unfit to judg cauſes, the Law cannot therefore intend they ſhould do it. The Context alſo ſhews, that this imagination of the King's judging all cauſes, if he could,

CHAP. III.

could, is merely chimerical: for *Bracton* ſays in the ſame Chapter, that *the power of the King is the Power of the Law*; that is, that he has no power but by the Law. And the Law that aims at juſtice, cannot make it to depend upon the uncertain humor of a Child, a Woman, or a fooliſh Man; for by that means it would deſtroy it ſelf. The Law cannot therefore give any ſuch power, and the King cannot have it.

If it be ſaid that all Kings are not ſo; that ſome are of mature age, wiſe, juſt and good; or that the queſtion is not what is good for the Subject, but what is glorious to the King, and that he muſt not loſe his right tho the People periſh; I anſwer, firſt, that whatſoever belongs to Kings as Kings, belongs to all Kings: this Power of judging cannot belong to all for the Reaſons above-mention'd: it cannot therefore belong to any as King, nor without madneſs be granted to any, till he has given teſtimony of ſuch Wiſdom, Experience, Diligence and Goodneſs, as is requir'd for ſo great a work. It imports not what his Anceſtors were; Vertues are not entail'd; and it were leſs improper for the Heirs of *Hales* and *Harvey*, to pretend that the Clients and Patients of their Anceſtors ſhould depend upon their advice in matters of Law and Phyſick, than for the Heirs of a great and wiſe Prince to pretend to Powers given on account of vertue, if they have not the ſame talents for the performance of the works requir'd.

Common ſenſe declares, that Governments are inſtituted, and Judicatures erected for the obtaining of juſtice. The Kings Bench was not eſtabliſh'd that the Chief Juſtice ſhould have a great Office, but that the oppreſſed ſhould be reliev'd, and right done. The Honor and Profit he receives, comes in as it were by accident, as the rewards of his ſervice, if he rightly perform his duty: but he may as well pretend he is there for his own ſake, as the King. God did not ſet up *Moſes* or *Joſhua*, that they might glory in having ſix hundred thouſand men under their command, but that they might lead the People into the Land they were to poſſeſs: that is, they were not for themſelves, but for the People; and the glory they acquir'd was by rightly performing the end of their inſtitution. Even our Author is oblig'd to confeſs this, when he ſays, that the King's Prerogative is inſtituted for the good of thoſe that are under it. 'Tis therefore for them that he enjoys it, and it can no otherwiſe ſubſiſt than in concurrence with that end. He alſo yields that *the ſafety of the People is the ſupreme Law*. The right therefore that the King has muſt be conformable and ſubordinate to it. If any one therefore ſet up an intereſt in himſelf that is not ſo, he breaks this ſupreme Law; he dos not live and reign for his People but for himſelf, and by departing from the end of his inſtitution deſtroys it: and if *Ariſtotle* (to whom our Author ſeems to have a great deference) deſerves credit, ſuch a one ceaſes to be a King, and becomes a Tyrant; he who ought to have bin the beſt of men is turn'd into the worſt; and he who is recommended to us under the name of a Father, becomes a publick Enemy to the People. The queſtion therefore is not, what is good for the King, but what is good for the People, and he can have no right repugnant to them.

Bracton is not more gentle. *The King*, ſays he, *is oblig'd by his Oath, to the utmoſt of his power, to preſerve the Church, and the Chriſtian World in peace; to hinder rapine, and all manner of iniquity; to cauſe juſtice and mercy to be obſerv'd: He has no power but from the Law: that only is to be taken for Law, quod rectè fuerit definitum:* he is therefore to cauſe juſtice to be done according to that rule, and not to pervert it for his own pleaſure,

ſure, profit or glory. He may chuſe Judges alſo, not ſuch as will be ſubſervient to his will, but *Viros ſapientes, timentes Deum, in quibus eſt veritas eloqaiorum, & qui oderunt avaritiam.* Which proves that Kings and their Officers do not poſſeſs their places for themſelves, but for the People, and muſt be ſuch as are fit and able to perform the dutys they undertake. The miſchievous fury of thoſe who aſſume a power above their abilitys, is well repreſented by the known fable of *Phaeton:* they think they deſire fine things for themſelves when they ſeek their own ruin. In conformity to this the ſame *Bracton* ſays, that * *If any man who is unskilful aſſume the ſeat of juſtice, he falls as from a Precipice,* &c. *and 'tis the ſame thing as if a ſword be put into the hand of a mad man*; which cannot but affect the King as well as thoſe who are choſen by him. If he neglect the functions of his Office, *he dos unjuſtly, and becomes the Vicegerent of the Devil*; *for he is the Miniſter of him whoſe works he dos.* This is *Bracton*'s opinion: but deſiring to be a more gentle Interpreter of the Law, I only wiſh that Princes would conſider the end of their inſtitution; endeavour to perform it; meaſure their own abilitys; content themſelves with that power which the Laws allow, and abhor thoſe Wretches who by flattery and lies endeavour to work upon their fraileſt Paſſions, by which means they draw upon 'em that hatred of the People, which frequently brings them to deſtruction.

SECT. 26. Bract. l. 3. c. 10.

Tho *Ulpian*'s words, *Princeps legibus non tenetur*, be granted to have bin true in fact, with relation to the *Roman* Empire, in the time when he liv'd; yet they can conclude nothing againſt us. The Liberty of *Rome* had bin overthrown long before by the power of the Sword, and the Law render'd ſubſervient to the will of the Uſurpers. They were not *Engliſh*-men, but *Romans*, who loſt the Battels of *Pharſalia* and *Philippi*: The Carcaſes of their Senators, not ours, were expos'd to the Wolves and Vulturs: *Pompeius, Scipio, Lentulus, Afranius, Petreius, Cato, Caſſius* and *Brutus* were defenders of the *Roman*, not the *Engliſh* Liberty; and that of their Country, not ours, could only be loſt by their defeat. Thoſe who were deſtroy'd by the Proſcriptions, left *Rome*, not *England* to be enſlav'd. If the beſt had gain'd the victory, it could have bin no advantage to us, and their overthrow can be no prejudice. Every Nation is to take care of their own Laws; and whether any one has had the Wiſdom, Vertue, Fortune and Power to defend them or not, concerns only themſelves. The Examples of great and good men acting freely deſerve conſideration, but they only periſh by the ill ſucceſs of their deſigns; and whatſoever is afterwards done by their ſubdu'd Poſterity ought to have no other effect upon the reſt of the world, than to admoniſh them ſo to join in the defence of their Libertys, as never to be brought under the neceſſity of acting by the command of one, to the prejudice of themſelves and their Country. If the *Roman* greatneſs perſuade us to put an extraordinary value upon what paſs'd among them, we ought rather to examin what they did, ſaid, or thought when they enjoy'd that Liberty which was the Mother and Nurſe of their Vertue, than what they ſuffer'd, or were forc'd to ſay, when fallen under that Slavery which produc'd all manner of corruption, and made them the moſt baſe and miſerable People of the world.

* Si quis minus ſapiens & indoctus, ſedem judicandi & honeſtatem judicandi ſibi præſumſerit, exalto corruit, &c. & perinde erit ac ſi gladium poneret in manu furentis. *Ibid.*

CHAP. III. For what concerns us, the Actions of our Anceſtors reſemble thoſe of the antient rather than the later *Romans:* tho our Government be not the ſame with theirs in form, yet it is in principle; and if we are not degenerated, we ſhall rather deſire to imitate the *Romans* in the time of their vertue, glory, power and felicity, than what they were in that of their ſlavery, vice, ſhame and miſery. In the beſt times, when *the Laws were more powerful than the commands of men*, fraud was accounted a crime ſo deteſtable as not to be imputed to any but Slaves; and he who had ſought a power above the Law under color of interpreting it, would have bin expos'd to ſcorn, or greater puniſhments, if any can be greater than the juſt ſcorn of the beſt men. And as neither the *Romans*, nor any people of the world, have better defended their libertys than the *Engliſh* Nation when any attempt has bin made to oppreſs them by force, they ought to be no leſs careful to preſerve them from the more dangerous efforts of fraud and falſhood.

Our Anceſtors were certainly in a low condition in the time of *William* the Firſt: Many of their beſt men had periſh'd in the Civil Wars or with *Harold:* their valor was great, but rough, and void of skill: The *Normans* by frequent Expeditions into *France*, *Italy* and *Spain*, had added ſubtilty to the boiſterous violence of their native climate: *William* had engag'd his Faith, but broke it, and turn'd the power with which he was entruſted to the ruin of thoſe that had truſted him. He deſtroy'd many worthy men, carry'd others into *Normandy*, and thought himſelf Maſter of all. He was crafty, bold, and elated with Victory; but the reſolution of a brave People was invincible. When their Laws and Libertys were in danger, they reſolved to die or to defend them, and made him ſee he could no otherwiſe preſerve his Crown and Life than by the performance of his Oath, and accompliſhing the ends of his Election. They neither took him to be the giver or interpreter of their Laws, and would not ſuffer him to violate thoſe of their Anceſtors. In this way they always continu'd; and tho perhaps they might want skill to fall upon the ſureſt and eaſieſt means of reſtraining the luſts of Princes, yet they maintain'd their rights ſo well, that the wiſeſt Princes ſeldom invaded them; and the ſucceſs of thoſe who were ſo fooliſh to attempt it was ſuch, as may juſtly deter others from following their unproſperous Examples. We have had no King ſince *William* the Firſt more hardy than *Henry* the *8th*, and yet he ſo intirely acknowledg'd the power of making, changing and repealing Laws to be in the Parliament, as never to attempt any extraordinary thing otherwiſe than by their Authority. It was not he, but the Parliament, that diſſolv'd the Abbys: He did not take their Lands to himſelf, but receiv'd what the Parliament thought fit to give him: He did not reject the Supremacy of the Pope, nor aſſume any other power in ſpiritual matters, than the Parliament confer'd upon him. The intricacys of his Marriages, and the legitimation of his Children were ſettled by the ſame Power: At leaſt one of his Daughters could not inherit the Crown upon any other Title; they who gave him a power to diſpoſe of the Crown by will, might have given it to his Groom; and he was too haughty to ask it from them, if he had it in himſelf, which he muſt have had, if the Laws and Judicatures had bin in his hand.

This is farther evidenc'd by what paſs'd in the Tower between Sir *Thomas Moor* and *Rich* the King's Sollicitor, who asking, If it would not be treaſon to oppoſe *Richard Rich*, if the Parliament ſhould make him King, *Moor* ſaid that was *Caſus levis*; for the Parliament could make and depoſe

Herberts's Hen. 8th.

Kings

Kings as they thought fit; and then (as more conducing to his own caſe) ask'd *Rich* if the Parliament ſhould enact *that God ſhould not be God*, whether ſuch as did not ſubmit ſhould be eſteem'd Traytors? 'Tis evident that a man of the acuteneſs and learning of Sir *Tho. Moor* would not have made uſe of ſuch an Argument to avoid the neceſſity of obeying what the Parliament had ordain'd, by ſhewing his Caſe to be of a nature far above the power of man, unleſs it had bin confeſt by all men that the Parliament could do whatſoever lay within the reach of human power. This may be enough to prove that the King cannot have a power over the Law; and if he has it not, the power of interpreting Law is abſurdly attributed to him, ſince it is founded upon a ſuppoſition that he can make them, which is falſe. SECT. 27.

SECT. XXVII.

Magna Charta *was not the Original, but a Declaration of the* Engliſh *Libertys. The King's Power is not reſtrain'd, but created by that and other Laws; and the Nation that made them can only correct the defects of them.*

I Agree with our Author that *Magna Charta was not made to reſtrain the abſolute Authority*; for no ſuch thing was in being or pretended (the folly of ſuch viſions ſeeming to have bin reſerv'd to compleat the misfortune and ignominy of our age) but it was to aſſert the native and original Libertys of our Nation by the confeſſion of the King then being, that neither he nor his Succeſſors ſhould any way encroach upon them: and it cannot be ſaid that the power of Kings is diminiſh'd by that or any other Law; for as they are Kings only by Law, the Law may confer power upon one in particular, or upon him and his Succeſſors, but can take nothing from them, becauſe they have nothing except what is given to them. But as that which the Law gives, is given by thoſe who make the Law, they only are capable of judging, whether he to whom they gave it, do well or ill imploy that power, and conſequently are only fit to correct the defects that may be found in it. Therefore tho I ſhould confeſs that faults may be found in many Statutes, and that the whole body of them is greatly defective, it will not follow that the compendious way of referring all to the will of the King ſhould be taken. But what defects ſoever may be in our Law, the diſeaſe is not ſo great to require extreme remedys, and we may hope for a cheaper cure. Our Law may poſſibly have given away too much from the People, and provided only inſufficient defences of our Libertys againſt the incroachments of bad Princes; but none who are not in judgment and honeſty like to our Author, can propoſe for a remedy to the evils that proceed from the error of giving too much, the reſignation of all the reſt to them. And whatever he ſays, 'tis evident that he knows this to be true, tho when he denys that the power of King can be reſtrain'd by Acts of Parliament, he endeavours to take advantage of ſuch clauſes as were either fraudulently inſerted by the King's Officers, who till the days of *Henry* the Fifth for the moſt part had the penning of the publick Acts, or thro negligence did not fully explain the intentions of the Legiſlators; which would be to no purpoſe if all were put into the hands of the King by a general Law from God, that

CHAP. III.

no human power could diminiſh or enlarge; and as his laſt ſhift would obliquely put all into the power of the King, by giving him a right of interpreting the Law, and judging ſuch caſes as are not clearly decided: which would be equally impertinent, if he had openly and plainly a right of determining all things according to his will.

But what defect ſoever may be in any Statutes, no great inconveniencys could probably enſue, if that for annual Parliaments was obſerv'd, as of right it ought to be. Nothing is more unlikely, than that a great Aſſembly of eminent and choſen men ſhould make a Law evidently deſtructive to their own deſigns; and no miſchief that might emerge upon the diſcovery of a miſtake, could be ſo extreme that the cure might not be defer'd till the meeting of the Parliament, or at leaſt forty days (in which time the King may call one) if that which the Law has fix'd ſeem to be too long. If he fails of this, he performs not his truſt; and he that would reward ſuch a breach of it with a vaſt and uncontrolable power, may be juſtly thought equal in madneſs to our Author, who by forbidding us to examin the titles of Kings, and enjoining an intire veneration of the power, by what means ſoever obtain'd, encourages the worſt of men to murder the beſt of Princes, with an aſſurance that if they proſper they ſhall enjoy all the honors and advantages that this World can afford.

Princes are not much more beholden to him for the haughty language he puts into their mouths, it having bin obſerv'd that the worſt are always moſt ready to uſe it; and their extravagances having bin often chaſtis'd by Law, ſufficiently proves, that their power is not deriv'd from a higher original than the Law of their own Countrys.

If it were true, that the anſwer ſometimes given by Kings to Bills preſented for their Aſſent, did, as our Author ſays, amount to a denial, it could only ſhew that they have a negative voice upon that which is agreed by the Parliament, and is far from a power of acting by themſelves, being only a check upon the other parts of the Government. But indeed it is no more than an eluſion; and he that dos by art obliquely elude, confeſſes he has not a right abſolutely to refuſe. 'Tis natural to Kings, eſpecially to the worſt, to ſcrue up their Authority to the height; and nothing can more evidently prove the defect of it, than the neceſſity of having recourſe to ſuch pitiful evaſions, when they are unwilling to do that which is requir'd. But if I ſhould grant that the words import a denial, and that (notwithſtanding thoſe of the Coronation Oath, *Quas vulgus elegerit*) they might deny; no more could be infer'd from thence, than that they are entruſted with a power equal in that point, to that of either Houſe, and cannot be ſupreme in our Author's ſenſe, unleſs there were in the ſame State at the ſame time three diſtinct ſupreme and abſolute Powers, which is abſurd.

His caſes relating to the proceedings of the Star Chamber and Council-Table, do only prove that ſome Kings have incroach'd upon the rights of the Nation, and bin ſuffer'd till their exceſſes growing to be extreme, they turn'd to the ruin of the Miniſters that advis'd them, and ſometimes of the Kings themſelves. But the Juriſdiction of the Council having bin regulated by the Statute of 17 *Car.* 1. and the Star-Chamber more lately aboliſh'd, they are nothing to our diſpute.

Such as our Author uſually impute to Treaſon and Rebellion the changes that upon theſe occaſions have enſu'd; but all impartial men do not only juſtify them, but acknowledg that all the Crowns of *Europe* are at this day enjoy'd by no other title than ſuch Acts ſolemnly perform'd by the reſpective

tive Nations, who either diſliking the Perſon that pretended to the Crown (tho next in blood) or the Government of the preſent Poſſeſſor, have thought fit to prefer another Perſon or Family. They alſo ſay, as that no Government can be ſo perfect but ſome defect may be originally in it, or afterwards introduc'd, none can ſubſiſt unleſs they be from time to time reduc'd to their firſt integrity, by ſuch an exertion of the power of thoſe for whoſe ſake they were inſtituted, as may plainly ſhew them to be ſubject to no power under Heaven, but may do whatever appears to be for their own good. And as the ſafety of all Nations conſiſts in rightly placing and meaſuring this Power, ſuch have bin found always to proſper who have given it to thoſe from whom Uſurpations were leaſt to be fear'd, who have bin leaſt ſubject to be aw'd, cheated or corrupted; and who having the greateſt intereſt in the Nation, were moſt concern'd to preſerve its power, liberty and welfare. This is the greateſt truſt that can be repos'd in men. This power was by the *Spartans* given to the *Ephori* and the Senat of twenty eight; in *Venice* to that which they call *Concilio de Pregadi*; in *Germany*, *Spain*, *France*, *Swedeland*, *Denmark*, *Poland*, *Hungary*, *Bohemia*, *Scotland*, *England*, and generally all the Nations that have liv'd under the *Gothick* Polity, it has bin in their General Aſſemblys, under the names of Diets, Cortez, Parliaments, Senats, and the like. But in what hands ſoever it is, the power of making, abrogating, changing, correcting and intepreting Laws, has bin in the ſame; Kings have bin rejected or depos'd; the Succeſſion of the Crown ſettled, regulated or chang'd: and I defy any man to ſhew me one King amongſt all the Nations abovemention'd, that has any right to the Crown he wears, unleſs ſuch acts are good. SECT. 28.

If this power be not well plac'd, or rightly proportion'd to that which is given to other Magiſtrats, the State muſt neceſſarily fall into great diſorders, or the muſt violent and dangerous means muſt be frequently us'd to preſerve their Liberty. *Sparta* and *Venice* have rarely bin put to that trouble, becauſe the Senats were ſo much above the Kings and Dukes in power, that they could without difficulty bring them to reaſon. The *Gothick* Kings in *Spain* never ventur'd to diſpute with the Nobility; and *Witza* and *Rodrigo* expos'd the Kingdom as a prey to the *Moors*, rather by weakning it thro the neglect of Military diſciplin, join'd to their own ignorance and cowardice, and by evil example bringing the youth to reſemble them in leudneſs and baſeneſs, than by eſtabliſhing in themſelves a power above the Law. But in *England* our Anceſtors, who ſeem to have had ſome ſuch thing in their eye, as balancing the powers, by a fatal miſtake plac'd uſually ſo much in the hands of the King, that whenſoever he happen'd to be bad, his extravagances could not be repreſt without great danger. And as this has in ſeveral ages coſt the Nation a vaſt proportion of generous blood, ſo 'tis the cauſe of our preſent difficultys, and threatens us with more, but can never deprive us of the rights we inherit from our fathers.

SECT. XXVIII.

The Engliſh Nation has always bin govern'd by it ſelf, or its Repreſentatives.

HAVING prov'd that the People of *England* have never acknowledg'd any other human Law than their own, and that our Parliaments having the power of making and abrogating Laws, they only can inter-

CHAP. III. interpret them and decide hard caſes, it plainly appears there can be no truth in our Author's aſſertion, That *the King is the Author, Corrector and Moderator of both Statute and Common Law:* and nothing can be more frivolous than what he adds, that *neither of them can be a diminution of that natural power which Kings have over their People as fathers*; in as much as the differences between paternal and monarchical Power (as he aſſerts it) are vaſt and irreconcilable in principle and practice, as I have prov'd at large in the former parts of this Work.

But leſt we ſhould be too proud of the honor he is pleas'd to do to our Parliaments by making uſe of their Authority, he ſays, *We are firſt to remember that till the Conqueſt* (which name for the glory of our Nation he gives to the coming in of the *Normans*) *there could be no Parliament aſſembled of the General States, becauſe we cannot learn that until thoſe days it was intirely united in one.* Secondly he doubts, *Whether the Parliament in the time of the* Saxons *were compos'd of the Nobility and Clergy, or whether the Commons were alſo call'd*; but concludes, *there could be no Knights of any Shires, becauſe there were no Shires.* Thirdly, *That* Henry *the Firſt caus'd the Commons firſt to aſſemble Knights and Burgeſſes of their own chuſing*; and would make this to be an Act of grace and favor from that King: but adds, that *it had bin more for the honor of Parliaments, if a King whoſe title to the Crown had bin better, had bin the Author of the form of it.*

In anſwer to the firſt, I do not think my ſelf oblig'd to inſiſt upon the name or form of the Parliament; for the Authority of a Magiſtracy proceeds not from the number of years that it has continu'd, but the rectitude of the Inſtitution, and the Authority of thoſe that inſtituted it. The power of *Saul*, *David* and *Jeroboam* was the ſame with that which belong'd to the laſt Kings of *Iſrael* and *Judah*. The Authority of the *Roman* Conſuls, Dictators, Pretors and Tribuns, was the ſame as ſoon as it was eſtabliſh'd; was as legal and juſt as that of the Kings of *Denmark*, which is ſaid to have continu'd above three thouſand years. For as time can make nothing lawful or juſt, that is not ſo of it ſelf (tho men are unwilling to change that which has pleas'd their Anceſtors, unleſs they diſcover great inconveniences in it) that which a People dos rightly eſtabliſh for their own good, is of as much force the firſt day, as continuance can ever give to it: and therefore in matters of the greateſt importance, wiſe and good men do not ſo much inquire what has bin, as what is good and ought to be; for that which of it ſelf is evil, by continuance is made worſe, and upon the firſt opportunity is juſtly to be aboliſh'd. But if that Liberty in which God created man, can receive any ſtrength from continuance, and the rights of *Engliſhmen* can be render'd more unqueſtionable by preſcription, I ſay that the Nations whoſe rights we inherit, have ever enjoy'd the Libertys we claim, and always exercis'd them in governing themſelves popularly, or by ſuch Repreſentatives as have bin inſtituted by themſelves, from the time they were firſt known in the World.

The *Britans* and *Saxons* lay ſo long hid in the obſcurity that accompanys barbariſm, that 'tis in vain to ſeek what was done by either in any Writers more antient than *Ceſar* and *Tacitus*. The firſt deſcribes the *Britans* to have bin a fierce People zealous for Liberty, and ſo obſtinately valiant in the defence of it, that tho they wanted skill, and were overpower'd by the *Romans*, their Country could no otherwiſe be ſubdu'd, than by the ſlaughter of all the Inhabitants able to bear arms. He calls them a free People, in as much as they were not like the *Gauls*, govern'd by Laws made

made by the great Men, but by the People. In his time they choſe *Caſſivellaunus*, and afterwards *Caractatus*, *Arviragus*, *Galgacus*, and others to command them in their wars, but they retain'd the Government in themſelves. That no force might be put upon them, they met arm'd in their general Aſſemblys; and tho the ſmaller matters were left to the determination of the Chief men choſen by themſelves for that purpoſe, they reſerv'd the moſt important (amongſt which the chuſing of thoſe men was one) to themſelves. When the *Romans* had brought them low, * they ſet up certain Kings to govern ſuch as were within their Territorys: but thoſe who defended themſelves by the natural ſtrength of their ſituation, or retir'd into the North, or the Iſlands, were ſtill govern'd by their own Cuſtoms, and were never acquainted with domeſtick or foreign ſlavery. The *Saxons*, from whom we chiefly derive our Original and Manners, were no leſs lovers of Liberty, and better underſtood the ways of defending it. They were certainly the moſt powerful and valiant People of *Germany*; and what the *Germans* perform'd under *Arioviſtus*, *Arminius* and *Maroboduus*, ſhews both their force and their temper. If ever fear enter'd into the heart of *Ceſar*, it ſeems to have bin when he was to deal with *Arioviſtus*. The advantages that the brave *Germanicus* obtain'd againſt *Arminius*, were at leaſt thought equal to the greateſt Victorys that had bin gain'd by any *Roman* Captain; becauſe theſe Nations fought not for riches, or any inſtruments of Luxury or Pleaſure, which they deſpis'd, but for Liberty. This was the Princip'e in which they liv'd, as appears by their words and actions; ſo that *Arminius*, when his brother *Flavius*, who ſerv'd the *Romans*, boaſted of the increaſe of his pay, and the marks of honor he had receiv'd, in ſcorn call'd them the ** *rewards of the vileſt ſervitude:* but when he himſelf endeavour'd to uſurp a power over the Liberty of his Country which he had ſo bravely defended, he was kill'd by thoſe he would have oppreſt. *Tacitus* farther deſcribing the nature of the *Germans*, ſhews that the *Romans* had run greater hazards from them than from the *Samnites*, *Carthaginians* and *Parthians*, and attributes their Bravery to the † Liberty they enjoy'd; for they are, ſays he, neither ‖ exhauſted by Tributes, nor vex'd by Publicans: and leſt this Liberty ſhould be violated, ‖‖ *the chief men conſult about things of leſſer moment; but the moſt important matters are determin'd by all.* Whoever would know the opinion of that wiſe Author concerning the *German* Liberty, may read his excellent Treatiſe of their Manners and Cuſtoms; but I preſume this may be enough to prove that they liv'd free under ſuch Magiſtrats as they choſe, regulated by ſuch Laws as they made, and retain'd the principal powers of the Government in their general or particular Councils. Their Kings and Princes had no other power than what was confer'd upon them by theſe †† Aſſemblys, who having all in themſelves could receive nothing from them who had nothing to give.

SECT. 28.

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* Inter inſtrumenta ſervitutis reges habuere. *C. Tacit.*

** Vilis ſervitii pramia. *Tacit.*

† Quippe gravior eſt Arſacis regno Germanorum Libertas.

‖ Exempti oneribus & collationibus, & tantum in uſum præliorum ſepoſiti, velut tela & arma bellis reſervantur.

‖‖ De minoribus principes conſultant, de majoribus omnes. *C. Tac.* de mor. Germ.

†† Ut turbæ placuit conſidunt armati, ſilentium per ſacerdotes, quibus tum coercendi jus eſt, imperatur. Mox Rex vel Princeps prout ætas cuique, prout nobilitas, prout decus bellorum, prout facundia eſt, audiuntur, autoritate ſuadendi, magis quam jubendi poteſtate. Si diſplicuit ſententia, fremitu aſpernantur; ſi placuit, frameas concutiunt, *&c.* Ibid.

'Tis

CHAP. III. 'Tis as eaſily prov'd that the *Saxons* or *Angli*, from whom we deſcend, were eminent among thoſe, whoſe power, vertue, and love to Liberty the abovemention'd Hiſtorian ſo highly extols, in as much as beſides what he ſays in general of the *Saxons*, he names the *Angli*; deſcribes their habitation near the *Elb*, and their religious worſhip of the Goddeſs *Erthum*, or the Earth, celebrated in an Iſland lying in the mouth of that River, thought to be *Heyligland*; in reſemblance of which a ſmall one lying over againſt *Berwick*, is call'd Holy Iſland. If they were free in their own Country, they muſt have bin ſo when they came hither. The manner of their coming ſhews they were more likely to impoſe, than ſubmit to ſlavery; and if they had not the name of Parliament, it was becauſe they did not ſpeak *French*; or, not being yet join'd with the *Normans*, they had not thought fit to put their Affairs into that method: but having the root of Power and Liberty in themſelves, they could not but have a right of eſtabliſhing the one in ſuch a form as beſt pleas'd them, for the preſervation of the other.

This being, as I ſuppoſe, undeniable, it imports not whether the Aſſemblys in which the Supreme Power of each Nation did reſide, were frequent or rare; compos'd of many or few Perſons, ſitting altogether in one place, or in more; what name they had; or whether every Free man did meet and vote in his own perſon, or a few were delegated by many. For they who have a Right inherent in themſelves, may reſign it to others; and they who can give a Power to others, may exerciſe it themſelves, unleſs they recede from it by their own act; for it is only matter of convenience, of which they alone can be the Judges, becauſe 'tis for themſelves only that they judg. If this were not ſo, it would be very prejudicial to Kings: for 'tis certain that *Caſſivellaunus*, *Caractatus*, *Arviragus*, *Galgacus*, *Hengiſt*, *Horſa*, and others amongſt the *Britans* and *Saxons*, what name ſoever may have bin abuſively given to them, were only temporary Magiſtrats choſen upon occaſion of preſent Wars; but we know of no time in which the *Britans* had not their Great Council to determin their moſt important Affairs: and the *Saxons* in their own Country had their Councils, where all were preſent, and in which *Tacitus* aſſures us they diſpatch'd their greateſt Buſineſs. Theſe were the ſame with the *Micklegemots* which they afterwards held here, and might have bin call'd by the ſame name, if *Tacitus* had ſpoken *Dutch*.

If a People therefore have not a power to create at any time a Magiſtracy which they had not before, none could be created at all, for no Magiſtracy is eternal: And if for the validity of the Conſtitution it be neceſſary, that the beginning muſt be unknown, or that no other could have bin before it, the Monarchy amongſt us cannot be eſtabliſh'd upon any right; for tho our Anceſtors had their Councils and Magiſtrats, as well here as in *Germany*, they had no Monarchs. This appears plainly by the teſtimony of *Ceſar* and *Tacitus*; and our later Hiſtorys ſhow, that as ſoon as the *Saxons* came into this Country, they had their *Micklegemots*, which were general Aſſemblys of the Noble and Free men, who had in themſelves the Power of the Nation: and tho when they increas'd in numbers, they erected ſeven Kingdoms, yet every one retain'd the ſame uſage within it ſelf. Theſe Aſſemblys were evidently the ſame in power with our Parliaments; and tho they differ'd in name or form, it matters not, for they who could act in the one, could not but have a power of inſtituting the other; that is, the ſame People that could meet together in their own Perſons, and according to their

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own pleaſure order all matters relating to themſelves, whilſt three or four Countys only were under one Government, and their numbers were not ſo great, or their habitation ſo far diſtant, that they might not meet altogether without inconvenience, with the ſame Right might depute others to repreſent them, when being join'd in one, no place was capable of receiving ſo great a multitude, and that the Frontiers would have bin expos'd to the danger of foreign Invaſions, if any ſuch thing had bin practis'd. SECT. 28.

But if the Authority of Parliaments, for many Ages repreſenting the whole Nation, were leſs to be valu'd (as our Author inſinuates) becauſe they could not repreſent the whole, when it was not join'd in one Body, that of Kings muſt come to nothing; for there could be no one King over all, when the Nation was divided into ſeven diſtinct Governments: And 'tis moſt abſurd to think that the Nation, which had ſeven Great Councils, or Micklegemots, at the ſame time they had ſeven Kingdoms, could not as well unite the ſeven Councils as the ſeven Kingdoms into one. 'Tis to as little purpoſe to ſay, that the Nation did not unite it ſelf, but the ſeveral parcels came to be inherited by one; for that one could inherit no more from the others than what they had; and the ſeven being only Magiſtrats ſet up by the Micklegemots, *&c.* the one muſt be alſo. And 'tis neither reaſonable to imagin, nor poſſible to prove, that a fierce Nation, jealous of Liberty, and who had obſtinately defended it in *Germany* againſt all Invaders, ſhould conquer this Country to enſlave themſelves, and purchaſe nothing by their Valor but that Servitude which they abhor'd; or be leſs free when they were united into one State, than they had bin when they were divided into ſeven; and leaſt of all, that one man could firſt ſubdue his own People, and then all the reſt, when by endeavouring to ſubdue his own, he had broken the Truſt repos'd in him, and loſt the Right confer'd upon him, and without them had not power to ſubdue any. But as it is my fate almoſt ever to diſſent from our Author, I affirm, That the variety of Government, which is obſerv'd to have bin amongſt the *Saxons*, who in ſome Ages were divided, in others united; ſometimes under Captains, at other times under Kings; ſometimes meeting perſonally in the Micklegemots, ſometimes by their Delegats in the Wittenagemots, dos evidently teſtify, that they order'd all things according to their own pleaſure; which being the utmoſt Act of Liberty, it remain'd inviolable under all thoſe changes, as we have already prov'd by the Examples of *Offa*, *Ina*, *Alfred*, *Canutus*, *Edward*, and other particular, as well as univerſal Kings: And we may be ſure thoſe of the *Norman* Race can have no more power, ſince they came in by the ſame way, and ſwore to govern by the ſame Laws.

2. I am no way concern'd in our Author's doubt, *Whether Parliaments did in thoſe days conſiſt of Nobility and Clergy*; *or*, *Whether the Commons were alſo call'd.* For if it were true, as he aſſerts, that according to the eternal Law of God and Nature, there can be no Government in the World but that of an abſolute Monarch, whoſe Sovereign Majeſty can be diminiſh'd by no Law or Cuſtom, there could be Parliaments, or other Magiſtracys, that did not derive their Power and Being from his Will. But having prov'd that the *Saxons* had their General Councils and Aſſemblys when they had no Kings; that by them Kings were made, and the greateſt Affairs determin'd, whether they had Kings or not; it can be of no importance, whether in one or more Ages the Commons had a part in the Government, or not. For the ſame

CHAP. III.

Power that inſtituted a Parliament without them, might, when they thought fit, receive them into it: or rather, if they who had the Government in their hands, did, for reaſons known to themſelves, recede from the exerciſe of it, they might reſume it when they pleas'd.

Nevertheleſs it may be worth our pains to inquire what our Author means by Nobility. If ſuch, as at this day by means of Patents obtain'd for mony, or by favor, without any regard to Merit in the Perſons or their Anceſtors, are call'd Dukes, Marqueſſes, *&c.* I give him leave to impute as late and baſe an Original to them as he pleaſes, without fearing that the Rights of our Nation can thereby be impair'd; and am content, that if the King do not think fit to ſupport the Dignity of his own Creatures, they may fall. But if by Noblemen we are to underſtand ſuch as have bin ennobl'd by the vertues of their Anceſtors, manifeſted in Services done to their Country, I ſay, that all Nations, amongſt whom Vertue has bin eſteem'd, have had a great regard to them and their Poſterity: and tho Kings, when they were made, have bin entruſted by the *Saxons*, and other Nations, with a Power of ennobling thoſe who by Services render'd to their Country might deſerve that Honor, yet the Body of the Nobility was more antient than ſuch; for it had bin equally impoſſible *to take* * *Kings* (according to *Tacitus*) *out of the Nobility*, if there had bin no Nobility, as *to take Captains for their Vertue*, if there had bin no Vertue. Princes could not without breach of Truſt confer Honors upon thoſe that did not deſerve them; which is ſo true, that this practice was objected as the greateſt crime againſt † *Vortigern*, the laſt and the worſt of the *Britiſh* Kings: and tho he might pretend (according to ſuch cavils as are uſually in our time) that the judgment of thoſe matters was refer'd to him; yet the World judg'd of his Crimes, and when he had render'd himſelf odious to God and Men by them, he periſh'd in them, and brought deſtruction upon his Country that had ſuffer'd them too long.

As among the *Turks*, and moſt of the Eaſtern Tyrannys, there is no Nobility, and no man has any conſiderable advantage above the common People, unleſs by the immediate favor of the Prince; ſo in all the legal Kingdoms of the North, the ſtrength of the Government has always bin plac'd in the Nobility; and no better defence has bin found againſt the encroachments of ill Kings, than by ſetting up an Order of Men, who by holding large Territorys, and having great numbers of Tenants and Dependents, might be able to reſtrain the exorbitances, that either the Kings or the Commons might run into. For this end *Spain*, *Germany*, *France*, *Poland*, *Denmark*, *Sweden*, *Scotland* and *England*, were almoſt wholly divided into Lordſhips under ſeveral names, by which every particular Poſſeſſor ow'd Allegiance (that is, ſuch an Obedience as the Law requires) to the King, and he reciprocally ſwore to perform that which the ſame Law exacted from him.

When theſe Nations were converted to the Chriſtian Religion, they had a great veneration for the Clergy; and not doubting that the Men

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* Reges ex nobilitate, duces ex virtute ſumere.

† Sublimato eo cœpit lues omnium ſcelerum creſcere: ſaviebat ſcurrilis nequitia, odium veritatis, &c. ut vas omnium ſcelerum ſolus videretur Vortigernus; & quod maxime Regiæ honeſtati contrarium eſt, Nobiles deprimens, & moribus & ſanguine ignobiles extollens, Deo & hominibus efficitur odioſus. *Mat. Weſtm.* An. 446.

whom

whom they eſteem'd holy, would be juſt, thought their Libertys could not be better ſecur'd, than by joining thoſe who had the direction of their Conſciences, to the Noblemen who had the command of their Forces. This ſucceeded ſo well (in relation to the defence of the publick Rights) that in all the foremention'd States, the Biſhops, Abbots, *&c.* were no leſs zealous or bold in defending the publick Liberty, than the beſt and greateſt of the Lords: And if it were true, that things being thus eſtabliſh'd, the Commons did neither perſonally, nor by their Repreſentatives, enter into the General Aſſemblys, it could be of no advantage to Kings; for ſuch a Power as is abovemention'd, is equally inconſiſtent with the abſolute Sovereignty of Kings, if plac'd in the Nobility and Clergy, as if the Commons had a part. If the King has all, no other Man, nor number of Men can have any. If the Nobility and Clergy have the power, the Commons may have their ſhare alſo. But I affirm, that thoſe whom we now call Commons, have always had a part in the Government, and their place in the Councils that manag'd it; for if there was a diſtinction, it muſt have bin by Patent, Birth, or Tenure. SECT. 28.

As for Patents, we know they began long after the coming of the *Normans*; and thoſe that now have them cannot pretend to any advantage on account of Birth or Tenure, beyond many of thoſe who have them not. Nay, beſides the ſeveral Branches of the Familys that now enjoy the moſt antient Honors, which conſequently are as noble as they, and ſome of them of the elder Houſes, we know many that are now call'd Commoners, who in antiquity and eminency are no way inferior to the chief of the titular Nobility: and nothing can be more abſurd, than to give a Prerogative of Birth to *Cr-v-n*, *T-ft-n*, *H-de*, *B-nn-t*, *Osb-rn*, and others, before the *Cliftons*, *Hampdens*, *Courtneys*, *Pelhams*, *St. Johns*, *Baintons*, *Wilbrahams*, *Hungerfords*, and many others. And if the Tenures of their Eſtates be conſider'd, they have the ſame, and as antient as any of thoſe who go under the names of Duke, or Marqueſs. I forbear to mention the ſordid ways of attaining to Titles in our days; but whoever will take the pains to examin them, ſhall find that they rather defile than ennoble the poſſeſſors. And whereas Men are truly ennobl'd only by Vertue, and reſpect is due to ſuch as are deſcended from thoſe who have bravely ſerv'd their Country, becauſe it is preſum'd (till they ſhew the contrary) that they will reſemble their Anceſtors, theſe modern Courtiers, by their Names and Titles, frequently oblige us to call to mind ſuch things as are not to be mention'd without bluſhing. Whatever the antient Noblemen of *England* were, we are ſure they were not ſuch as theſe. And tho it ſhould be confeſt that no others than Dukes, Marqueſſes, Earls, Viſcounts, and Barons, had their places in the Councils mention'd by *Ceſar* and *Tacitus*, or in the great Aſſemblys of the *Saxons*, it could be of no advantage to ſuch as are now call'd by thoſe names. They were the titles of Offices confer'd upon thoſe, who did and could beſt conduct the People in time of War; give Counſel to the King; adminiſter Juſtice, and perform other publick dutys; but were never made hereditary except by abuſe; much leſs were they ſold for mony, or given as recompences of the vileſt ſervices. If the antient Order be totally inverted, and the ends of its Inſtitution perverted, they who from thence pretend to be diſtinguiſh'd from other men, muſt build their Claim upon ſomething very different from Antiquity.

This being ſufficient (if I miſtake not) to make it appear, That the antient Councils of our Nation did not conſiſt of ſuch as we now call Noblemen, it may be worth our pains to examin of what ſort of men they

CHAP. III. did conſiſt: And tho I cannot much rely upon the credit of *Camden*, which he has forfeited by a great number of untruths, I will begin with him, becauſe he is cited by our Author. If we will believe him, (*a*) *That which the* Saxons *call'd Wittenagemot, we may juſtly name Parliament, which has the ſupreme and moſt ſacred Authority of making, abrogating and interpreting Laws, and generally of all things relating to the ſafety of the Commonwealth.* This Wittenagemot was, according to *William* of *Malmsbury*, (*b*) *The general meeting of the Senat and People*; and Sir *Harry Spelman* calls it, (*c*) *The General Council of the Clergy and People.* In the Aſſembly at *Calcuth* it was decreed by the Archbiſhops, Biſhops, Abbots, Dukes, Senators, and the People of the Land (*Populo terræ*) that *the* (*d*) *Kings ſhould be elected by the Prieſts and Elders of the People.* By theſe *Offa*, *Ina*, and others, were made Kings; and *Alfred* in his Will acknowledg'd his (*e*) Crown from them. *Edgar* was elected by all the People, and not long after depos'd by them, and again reſtor'd in a (*f*) General Aſſembly. Theſe things being ſometimes ſaid to be done by the aſſent of the Barons of the Kingdom, *Camden* ſays, That *under the name of the* (*g*) *Baronage, all the Orders of the Kingdom are in a manner comprehended*; and it cannot be otherwiſe underſtood, if we conſider that thoſe call'd Noblemen, or the Nobility of *England*, are often by the Hiſtorians ſaid to be (*infinita multitudo*) an infinite multitude.

If any man ask how the Nobility came to be ſo numerous; I anſwer, That the Northern Nations, who were perpetually in Arms, put a high eſteem upon Military Valor; ſought by conqueſt to acquire better Countrys than their own; valu'd themſelves according to the numbers of men they could bring into the field; and to diſtinguiſh them from Villains, call'd thoſe Noblemen, who nobly defended and enlarg'd their Dominions by War; and for a reward of their Services, in the diviſion of Lands gain'd by conqueſt, they diſtributed to them Freeholds, under the obligation of continuing the ſame Service to their Country. This appears by the name of Knights Service, a Knight being no more than a Soldier, and a Knight's Fee no more than was ſufficient to maintain one. 'Tis plain, that Knighthood was always eſteem'd Nobility; ſo that no man, of what quality ſoever, thought a Knight inferior to him, and thoſe of the higheſt birth could not act as Noblemen till they were knighted. Among the *Goths* in *Spain*, the cutting off the Hair (which being long was the mark of Knighthood) was accounted a degrading, and look'd upon to be ſo great a mark of Infamy, that he who had ſuffer'd it, could never bear any honor or office in the Commonwealth; and there was no dignity ſo high, but every Knight was capable of it. There was no diſtinction of men above it, and even to this day *Baron*, or *Varon*, in their Language, ſignifys no more than *Vir* in Latin, which is not properly given to any man unleſs he be free. The like was in *France* till the coming in of the third race of Kings, in which time the 12 Peers (of whom 6 only were Laymen) were rais'd to a higher dignity, and the Commands annex'd made hereditary; but

(*a*) Quod Saxones olim Wittenagemot, Parliamentum & Pananglicum recte dici poſſit, ſummamq; & ſacroſanctam habet autoritatem in legibus ferendis, antiquandis, conformandis, interpretandis, & in omnibus quæ ad Reipublicæ ſalutem ſpectant. *Brit.* fol. 63.

(*b*) Generalis Senatus & populi Conventus. *Malmſ.*

(*c*) Commune Concilium tam Cleri quam Populi. *Spelm.*

(*d*) Ut Reges à Sacerdotibus & ſenioribus Populi eligantur.

(*e*) Quam Deus & Principes cum ſenioribus Populi miſericorditer & benigne dederunt.

(*f*) Coram omni multitudine populi Anglorum.

(*g*) Nomine Baronagii omnes quodam modo regni ordines continentur. *Camd.*

the

the honor of Knighthood was thereby no way diminiſh'd. Tho there were Dukes, Earls, Marqueſſes and Barons in the time of *Froiſſart*, yet he uſually calls them Knights: And *Philip de Commines*, ſpeaking of the moſt eminent men of his time, calls them good, wiſe or valiant Knights. Even to this day the name of Gentleman comprehends all that is rais'd above the common people: *Henry* the Fourth uſually call'd himſelf the firſt Gentleman in *France*; and 'tis an ordinary phraſe among them, when they ſpeak of a Gentleman of good Birth, to ſay, *Il eſt noble comme le Roy, He is as noble as the King.* In their General Aſſembly of Eſtates, *The Chamber of the Nobleſſe*, which is one of Three, is compos'd of the Deputys ſent by the Gentry of every Province; and in the inquiry made about the Year 1668 concerning Nobility, no notice was taken of ſuch as had aſſum'd the Titles of Earl, Marqueſs, Viſcount, or Baron, but only of thoſe who call'd themſelves Gentlemen; and if they could prove that name to belong to them, they were left to uſe the other Titles as they pleas'd. When Duels were in faſhion (as all know they were lately) no man except the Princes of the Blood, and Marechals of *France*, could with honor refuſe a Challenge from any Gentleman: The firſt, becauſe it was thought unfit, that he who might be King, ſhould fight with a Subject to the danger of the Commonwealth, which might by that means be depriv'd of its Head: The others being by their Office Commanders of the Nobility, and Judges of all the Controverſys relating to Honor that happen amongſt them, cannot reaſonably be brought into private Conteſts with any. In *Denmark Nobleman* and *Gentleman* is the ſame thing, and till the year 1660, they had the principal part of the Government in their hands. When *Charles Guſtavus*, King of *Sweden*, invaded *Poland* in the year 1655, 'tis ſaid, that there were above three hundred thouſand Gentlemen in Arms to reſiſt him. This is the Nobility of that Country, Kings are choſen by them: Every one of them will ſay, as in *France*, *He is noble as the King.* The laſt King was a private man among them, not thought to have had more than four hundred pounds a year. He who now reigns was not at all above him in birth or eſtate, till he had rais'd himſelf by great ſervices done for his Country in many wars; and there was not one Gentleman in the Nation who might not have bin choſen as well as he, if it had pleas'd the Aſſembly that did it.

SECT. 28.

This being the Nobility of the Northern Nations, and the true Baronage of *England*, 'tis no wonder that they were call'd *Nobiles*, the moſt eminent among them *Magnates, Principes, Proceres*; and ſo numerous that they were eſteem'd to be *Multitudo infinita.* One place was hardly able to contain them; and the inconveniences of calling them all together appear'd to be ſo great, that in time they choſe rather to meet by Repreſentatives, than every one in his own perſon. The power therefore remaining in them, it matters not what method they obſerv'd in the execution. They who had the ſubſtance in their hands, might give it what form they pleas'd. Our Author ſufficiently manifeſts his ignorance, in ſaying there could be no Knights of the Shires in the time of the *Saxons*, becauſe there were no Shires; for the very word is *Saxon*, and we find the names of *Barkſhire*, *Wiltſhire*, *Devonſhire*, *Dorſetſhire*, and others moſt frequently in the writings of thoſe times; and Dukes, Earls, Thanes or Aldermen, appointed to command the Forces, and look to the diſtribution of Juſtice in them. *Selden* cites *Ingulphus* for ſaying, that *Alfred was the firſt that chang'd the Provinces*, &c. *into Countys*: but refutes him, and proves that the diſtinction of the Land into Shires or Countys

Selden's *Tit. of Honor*, p. 2. c. 5.

CHAP. III. Countys (for Shire ſignify'd no more than the ſhare or part committed to the care of the Earl or *Comes*) was far more antient. Whether the firſt diviſions by the *Saxons* were greater or leſſer than the Shires or Countys now are, is nothing to the queſtion; they who made them to be as they were, could have made them greater or leſſer as they pleas'd. And whether they did immediately, or ſome ages after that diſtinction, ceaſe to come to their great Aſſemblys, and rather chuſe to ſend their Deputys; or whether ſuch Deputys were choſen by Countys, Citys and Boroughs, as in our days, or in any other manner, can be of no advantage or prejudice to the Cauſe that I maintain. If the power of the Nation, when it was divided into ſeven Kingdoms, or united under one, did reſide in the Micklegemots or Wittenagemots; if theſe conſiſted of the Nobility and People, who were ſometimes ſo numerous that no one place could well contain them; and if the preference given to the chief among them, was on account of the Offices they executed, either in relation to war or juſtice, which no man can deny, I have as much as ſerves for my purpoſe. 'Tis indifferent to me, whether they were call'd Earls, Dukes, Aldermen, Herotoghs or Thanes; for 'tis certain that the titular Nobility now in mode amongſt us has no reſemblance to this antient Nobility of *England*. The novelty therefore is on the other ſide, and that of the worſt ſort; becauſe by giving the name of Noblemen (which antiently belong'd to ſuch as had the greateſt intereſts in Nations, and were the ſupporters of their Liberty) to Court-creatures, who often have none, and either acquire their Honors by mony, or are preferr'd for ſervile and ſometimes impure ſervices render'd to the Perſon that reigns, or elſe for miſchiefs done to their Country, the Conſtitution has bin wholly inverted, and the truſt repos'd in the Kings (who in ſome meaſure had the diſpoſal of Offices and Honors) miſemploy'd. This is farther aggravated by appropriating the name of Noblemen ſolely to them; whereas the Nation having bin antiently divided only into Freemen or Noblemen (who were the ſame) and Villains; the firſt were, as *Tacitus* ſays of their Anceſtors the *Germans*, * *exempted from burdens and contributions, and reſerv'd like arms for the uſes of war*; whilſt the others were little better than ſlaves, appointed to cultivate the Lands, or to other ſervile Offices. And I leave any reaſonable man to judg, whether the latter condition be that of thoſe we now call Commoners. Nevertheleſs, he that will believe the title of Noblemen ſtill to belong to thoſe only who are ſo by Patent, may gueſs how well our wars would be manag'd if they were left ſolely to ſuch as are ſo by that title. If this be approv'd, his Majeſty may do well with his hundred and fifty Noblemen, eminent in valor and military experience as they are known to be, to make ſuch wars as may fall upon him, and leave the deſpis'd Commons under the name of Villains, to provide for themſelves if the ſucceſs do not anſwer his expectations. But if the Commons are as free as the Nobles, many of them in birth equal to the Patentees, in Eſtate ſuperior to moſt of them; and that it is not only expected they ſhould aſſiſt him in wars with their Perſons and Purſes, but acknowledg'd by all, that the ſtrength and vertue of the Nation is in them, it muſt be confeſt that they are true Noblemen of *England*, and that all the privileges antiently enjoy'd by ſuch, muſt neceſſarily belong to them, ſince they perform the Offices to which they were

* Exempti oneribus & collationibus, & tantum in uſum præliorum repoſiti, veluti tela & arma bellis reſervantur. *Corn. Tacit.* de morib. Germ.

annex'd.

annex'd. This ſhews how the Nobility were juſtly ſaid to be almoſt infinite in number, ſo that no one place was able to contain them. The *Saxon* Armys that came over into this Country to a wholeſom and generative climat, might well increaſe in four or five ages to thoſe vaſt numbers, as the *Franks*, *Goths* and others had done in *Spain*, *France*, *Italy*, and other parts: and when they were grown ſo numerous, they found themſelves neceſſarily oblig'd to put the power into the hands of Repreſentatives choſen by themſelves, which they had before exercis'd in their own perſons. But theſe two ways differing rather in form than eſſentially, the one tending to Democracy, the other to Ariſtocracy, they are equally oppoſite to the abſolute dominion of one man reigning for himſelf, and governing the Nation as his Patrimony; and equally aſſert the rights of the People to put the Government into ſuch a form as beſt pleaſes themſelves. This was ſutable to what they had practis'd in their own Country; *De minoribus conſultant Principes, de majoribus omnes.* Nay, even theſe *ſmaller matters* cannot be ſaid properly to relate to the King; for he is but one, and the word *Principes* is in the plural number, and can only ſignify ſuch principal men, as the ſame Author ſays were choſen by the General Aſſemblys to do juſtice, *&c.* and to each of them one hundred *Comites* join'd, not only to give advice, but authority to their actions. SECT. 28. Tacit. de mor. Germ.

The word *Omnes* ſpoken by a *Roman*, muſt likewiſe be underſtood as it was us'd by them, and imports all the Citizens, or ſuch as made up the body of the Commonwealth. If he had ſpoken of *Rome* or *Athens* whilſt they remain'd free, he muſt have us'd the ſame word (becauſe all thoſe of whom the City conſiſted had votes) how great ſoever the number of ſlaves or ſtrangers might have bin. The *Spartans* are rightly ſaid to have gain'd, loſt and recover'd the Lordſhip or Principality of *Greece*. They were all Lords in relation to their *Helots*; and ſo were the *Dorians* in relation to that ſort of men, which under ſeveral names they kept, as the *Saxons* did their Villains, for the performance of the Offices which they thought too mean for thoſe who were ennobl'd by Liberty, and the uſe of Arms, by which the Commonwealth was defended and enlarg'd. Tho the *Romans* ſcorn'd to give the title of Lord to thoſe who had uſurp'd a power over their Lives and Fortunes; yet every one of them was a Lord in relation to his own Servants, and altogether are often call'd * *Lords of the world:* the like is ſeen almoſt every where. The Government of *Venice* having continu'd for many ages in the ſame Familys, has ennobl'd them all. No phraſe is more common in *Switzerland*, than *the Lords of Bern*, or *the Lords of Zurich* and other places, tho perhaps there is not a man amongſt them who pretends to be a Gentleman, according to the modern ſenſe put upon that word. The States of the United Provinces are call'd High and Mighty Lords, and the ſame title is given to each of them in particular. Nay, the word *Heer*, which ſignifys Lord both in high and low *Dutch*, is as common as Monſieur in *France*, Signor in *Italy*, or Sennor in *Spain*; and is given to every one who is not of a ſordid condition, but eſpecially to Soldiers: and tho a common Soldier be now a much meaner thing than it was antiently, no man ſpeaking to a company of Soldiers in *Italian*, uſes any other ſtile than *Signori Soldati*; and the like is done in other Languages. 'Tis not therefore to be thought ſtrange, if the *Saxons*, who in their own Country had ſcorn'd any other employment than that of the Sword, ſhould think themſelves farther ennobl'd,

* Romanos rerum Dominos. *Virg.*

when

CHAP. III. when by their Arms they had acquir'd a great and rich Country, and driven out or ſubdu'd the former inhabitants. They might well diſtinguiſh themſelves from the Villains they brought with them, or the *Britans* they had enſlav'd. They might well be call'd *Magnates*, *Proceres regni*, *Nobiles*, *Angliæ Nobilitas*, *Barones*; and the Aſſemblys of them juſtly call'd *Concilium Regni Generale*, *Univerſitas totius Angliæ Nobilium*, *Univerſitas Baronagii*, according to the variety of times and other occurrences. We have ſuch footſteps remaining of the name of Baron, as plainly ſhew the ſignification of it. The Barons of *London* and the Cinq Ports are known to be only the Freemen of thoſe places. In the petty Court-Barons, every man who may be of a Jury is a Baron. Theſe are Noblemen; for there are noble Nations as well as noble men in Nations. The *Mammalukes* accounted themſelves to be all noble, tho born ſlaves; and when they had ennobl'd themſelves by the uſe of Arms, they look'd upon the nobleſt of the *Egyptians* as their ſlaves. *Tertullian* writing, not to ſome eminent men, but to the whole People of *Carthage*, calls them *Antiquitate Nobiles*, *Nobilitate felices*. Such were the *Saxons*, ennobl'd by a perpetual application to thoſe exerciſes that belong to Noblemen, and an abhorrence to any thing that is vile and ſordid.

Leſt this ſhould ſeem far fetch'd, to thoſe who pleaſe themſelves with cavilling, they are to know, that the ſame General Councils are expreſt by other Authors in other words. They are call'd * *The General Council of the Biſhops, Noblemen, Counts, all the wiſe men, Elders, and People of the whole Kingdom*, in the time of *Ina*. In that *Edward* the elder, † *The Great Council of the Biſhops, Abbots, Noblemen and People*. *William* of *Malmsbury* calls them, || *The General Senat and Aſſembly of the People*. Sometimes they are in ſhort call'd *Clergy and People*; but all expreſs the ſame power, neither receiv'd from, nor limitable by Kings, who are always ſaid to be choſen or made, and ſometimes depos'd by them. *William* the *Norman* found, and left the Nation in this condition: *Henry* the ſecond, *John* and *Henry* the third, who had nothing but what was confer'd upon them by the ſame Clergy and People, did ſo too. *Magna Charta* could give nothing to the People, who in themſelves had all; and only reduc'd into a ſmall Volume the Rights which the Nation was reſolv'd to maintain; brought the King to confeſs, they were perpetually inherent, and time out of mind enjoy'd, and to ſwear that he would no way violate them; if he did, he was *ipſo facto* excommunicated; and being thereby declar'd to be an execrable perjur'd Perſon, they knew how to deal with him. This Act has bin confirm'd by thirty Parliaments; and the proceedings with Kings, who have violated their Oaths, as well before as after the time of *Henry* the third, which have bin already mention'd, are ſufficient to ſhew, that *England* has always bin govern'd by it ſelf, and never acknowledg'd any other Lord than ſuch as they thought fit to ſet up.

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* Commune Concilium Epiſcoporum, Procerum, Comitum & omnium Sapientum, Seniorum & Populorum totius regni. *Bed.* Eccl. Hiſt.

† Magnum Concilium Epiſcoporum, Abbatum, Fidelium, Procerum & Populorum.

|| Senatum generalem & populi conventum.

SECT.

SECT. XXIX.

The King was never Maſter of the Soil.

THOSE who without regard to truth, reſolve to inſiſt upon ſuch points as they think may ſerve their deſigns, when they find it cannot be deny'd that the powers before mention'd have bin exercis'd by the *Engliſh* and other Nations, ſay, that they were the conceſſions of Kings, who being maſters of the Soil, might beſtow parcels upon ſome Perſons with ſuch conditions as they pleas'd, retaining to themſelves the ſupreme dominion of the whole: and having already, as they think, made them the Fountains of Honor, they proceed to make them alſo the Fountains of Property; and for proof of this alledg, that all Lands, tho held of mean Lords, do by their Tenures at laſt reſult upon the King, as the Head from whom they are enjoy'd. This might be of force if it were true: but matters of the higheſt importance requiring a moſt evident proof, we are to examin, Firſt, if it be poſſible; and in the next place, if it be true.

1. For the firſt; No man can give what he has not. Whoever therefore will pretend that the King has beſtow'd this propriety, muſt prove that he had it in himſelf. I confeſs, that the Kings of *Spain* and *Portugal* obtain'd from the Pope grants of the Territorys they poſſeſt in the *Weſt-Indys*; and this might be of ſome ſtrength, if the Pope as Vicar of Chriſt had an abſolute dominion over the whole earth; but if that fail, the whole falls to the ground, and he is ridiculouſly liberal of that which no way belongs to him. My buſineſs is not to diſpute that point; but before it can have any influence upon our Affairs, our Kings are to prove, that they are Lords of *England* upon the ſame Title, or ſome other equivalent to it. When that is done, we ſhall know upon whom they have a dependence, and may at leiſure conſider, whether we ought to acknowledg and ſubmit to ſuch a Power, or give reaſons for our refuſal. But there being no ſuch thing in our preſent caſe, their property muſt be grounded upon ſomething elſe, or we may juſtly conclude they have none.

In order to this 'tis hardly worth the pains to ſearch into the obſcure remains of the *Britiſh* Hiſtorys: For when the *Romans* deſerted our Iſland, they did not confer the right they had (whether more or leſs) upon any man, but left the enjoyment of it to the poor remainders of the Nation, and their own eſtabliſh'd Colonys, who were grown to be one People with the Natives. The *Saxons* came under the conduct of *Hengiſt* and *Horſa*, who ſeem to have bin ſturdy Pirats; but did not (that I can learn) bear any Characters in their perſons of the ſo much admir'd Sovereign Majeſty, that ſhould give them an abſolute dominion or propriety, either in their own Country, or any other they ſhould ſet their feet upon. They came with about a hundred men; and chuſing rather to ſerve *Vortigern*, than to depend upon what they could get by rapine at Sea, liv'd upon a ſmall proportion of Land by him allotted to them. Tho this ſeems to be but a ſlender encouragement, yet it was enough to invite many others to follow their Example and Fortune; ſo that their

Mat. Weſt. Flor. Hiſt.

CHAP. III. number increaſing, the County of *Kent* was given to them, under the obligation of ſerving the *Britans* in their Wars. Not long after, Lands in *Northumberland* were beſtow'd upon another company of them with the ſame condition. This was all the Title they had to what they enjoy'd, till they treacherouſly kill'd four hundred and ſixty, or, as *William* of *Malmsbury* ſays, three hundred principal men of the Nobility, and made *Vortigern* Priſoner, who had bin ſo much their Benefactor, that he ſeems never to have deſerv'd well but from them, and to have incens'd the *Britans* by the favor he ſhew'd them, as much as by the worſt of his Vices. And certainly actions of this kind, compos'd of falſhood and cruelty, can never create a right, in the opinion of any better men than *Filmer* and his Diſciples, who think that the power only is to be regarded, and not the means by which it is obtain'd. But tho it ſhould be granted that a right had bin thus acquir'd, it muſt accrue to the Nation, not to *Hengiſt* and *Horſa*. If ſuch an acquiſition be call'd a Conqueſt, the benefit muſt belong to thoſe that conquer'd. This was not the work of two men; and thoſe who had bin free at home, can never be thought to have left their own Country, to fight as ſlaves for the glory and profit of two men in another. It cannot be ſaid that their wants compel'd them, for their Leaders ſuffer'd the ſame, and could not be reliev'd but by their aſſiſtance; and whether their enterprize was good or bad, juſt or unjuſt, it was the ſame to all: No one man could have any right peculiar to himſelf, unleſs they who gain'd it, did confer it upon him: and 'tis no way probable, that they who in their own Country had kept their Princes within very narrow limits, as has bin prov'd, ſhould reſign themſelves, and all they had, as ſoon as they came hither. But we have already ſhewn that they always continu'd moſt obſtinate defenders of their Liberty, and the Government to which they had bin accuſtom'd; that they manag'd it by themſelves, and acknowledg'd no other Laws than their own. Nay, if they had made ſuch a reſignation of their Right, as was neceſſary to create one in their Leaders, it would be enough to overthrow the propoſition; for 'tis not then the Leader that gives to the People, but the People to the Leader. If the people had not a right to give what they did give, none was confer'd upon the receiver: if they had a right, he that ſhould pretend to derive a benefit from thence, muſt prove the grant, that the nature and intention of it may appear.

Ibid.

2. To the ſecond: If it be ſaid that Records teſtify all Grants to have bin originally from the King; I anſwer, That tho it were confeſt, (which I abſolutely deny, and affirm that our Rights and Libertys are innate, inherent, and enjoy'd time out of mind before we had Kings) it could be nothing to the queſtion, which is concerning Reaſon and Juſtice; and if they are wanting, the defect can never be ſupply'd by any matter of fact, tho never ſo clearly prov'd. Or if a Right be pretended to be grounded upon a matter of fact, the thing to be prov'd is, that the people did really confer ſuch a right upon the firſt, or ſome other Kings: And if no ſuch thing do appear, the proceedings of one or more Kings as if they had it, can be of no value. But in the preſent caſe, no ſuch grant is pretended to have bin made, either to the firſt, or to any of the following Kings; the Right they had not, their Succeſſors could not inherit, and conſequently cannot have it, or at moſt no better title to it than that of Uſurpation.

But as they who inquire for truth ought not to deny or conceal any thing, I may grant that Mannors, *&c.* were enjoy'd by tenure from Kings; but that will no way prejudice the cauſe I defend, nor ſignify more than that the Countrys which the *Saxons* had acquir'd, were to be divided among them; and to avoid the quarrels that might ariſe, if every man took upon him to ſeize what he could, a certain method of making the diſtribution was neceſſarily to be fix'd; and it was fit, that every man ſhould have ſomething in his own hands to juſtify his Title to what he poſſeſt, according to which controverſys ſhould be determin'd. This muſt be teſtify'd by ſome body, and no man could be ſo fit, or of ſo much credit as he who was chief among them; and this is no more than is uſual in all the Societys of the World. The Mayor of every Corporation, the Speaker or Clerk of the Houſe of Peers or Houſe of Commons, the firſt Preſident of every Parliament, or Preſidial in *France*; the Conſul, Burgermaſter, Advoyer or Bailiff in every free Town of *Holland*, *Germany* or *Switzerland*, ſign the publick Acts that paſs in thoſe places. The Dukes of *Venice* and *Genoa* do the like, tho they have no other power than what is confer'd upon them, and of themſelves can do little or nothing. The Grants of our Kings are of the ſame nature, tho the words *mero motu noſtro* ſeem to imply the contrary; for Kings ſpeak always in the plural number, to ſhew that they do not act for themſelves, but for the Societys over which they are plac'd; and all the veneration that is, or can be given to their Acts, dos not exalt them, but thoſe from whom their Authority is deriv'd, and for whom they are to execute. The Tyrants of the Eaſt, and other Barbarians, whoſe power is moſt abſolute, ſpeak in the ſingle number, as appears by the decrees of *Nabuchodonoſor*, *Cyrus*, *Darius* and *Ahaſuerus* recited in Scripture, with others that we hear of daily from thoſe parts: but whereſoever there is any thing of civility or regularity in Government, the Prince uſes the plural, to ſhew that he acts in a publick capacity. From hence, ſays *Grotius*, the rights of Kings to ſend Embaſſadors, make Leagues, *&c.* do ariſe: the confederacys made by them do not terminate with their lives, becauſe they are not for themſelves; they ſpeak not in their own Perſons, but as repreſenting their People; and * *a King who is depriv'd of his Kingdom loſes the right of ſending Embaſſadors*, becauſe he can no longer ſpeak for thoſe, who by their own conſent, or by a foreign force, are cut off from him. The queſtion is not whether ſuch a one be juſtly or unjuſtly depriv'd (for that concerns only thoſe who do it or ſuffer it) but whether he can oblige the People; and 'tis ridiculous for any Nation to treat with a man that cannot perform what ſhall be agreed, or for him to ſtipulate that which can oblige, and will be made good only by himſelf.

SECT. 29.

But tho much may be left to the diſcretion of Kings in the diſtribution of Lands and the like, yet it no way diminiſhes the right of the People, nor confers any upon them otherwiſe to diſpoſe of what belongs to the publick, than may tend to the common good, and the accompliſhment of thoſe ends for which they are intruſted. Nay, if it were true, that a conquer'd Country did belong to the Crown, the King could not diſpoſe of it, becauſe 'tis annex'd to the Office, add not alienable by the Perſon. This is not only found in regular mix'd Monarchys (as in *Sweden*, where the Grants made by the laſt Kings have bin lately reſcinded by the General Aſſembly of Eſtates, as contrary to Law) but even in the moſt abſolute,

* Rex regno exutus, jus legandi amittit. *Grot. de Jur. Bell.*

CHAP. III.

as in *France*, where the present King, who has stretch'd his power to the utmost, has lately acknowledg'd that he cannot do it; and according to the known maxim of the State, that the demeasnes of the Crown, which are design'd for the defraying of publick Charges, cannot be alienated, all the Grants made within the last fifteen years have bin annul'd; even those who had bought Lands of the Crown have bin call'd to account, and the Sums given being compar'd with the profits receiv'd, and a moderate interest allow'd to the purchasers, so much of the principal as remain'd due to them has bin repay'd, and the Lands resum'd.

SECT. XXX.

Henry *the First was King of* England *by as good a Title as any of his Predecessors or Successors.*

HAVING made it appear, as I suppose, that the antient Nobility of *England* was compos'd of such men as had bin ennobl'd by bearing Arms in the defence or enlargement of the Commonwealth; that the Dukes, Earls, *&c.* were those who commanded them; that they and their dependents receiv'd Lands for such services, under an obligation of continuing to render the like, and according to their several degrees and proportions, to provide and maintain Horses, Arms and Men for the same uses; it cannot be deny'd that they were such Gentlemen and Lords of Mannors, as we now call Commoners, together with the Freeholders, and such as in war were found most able to be their Leaders. Of these the Micklegemots, Wittenagemots, and other publick Assemblys did consist; and nothing can be more absurd than to assign the names and rights of Duke, Earl and Vicount, which were names of Offices, to those who have not the Offices, and are no way fit for them. If our Author therefore had said, that such as these, who had always compos'd the great Councils of our Nation, had in favour of *Henry* the First, bestow'd the Crown upon him, as they had done upon his Father and Brother, I should agree with him: but 'tis the utmost extravagance to say, that he who had neither title nor possession, should give the power to those who had always bin in the possession of it, and exercis'd it in giving to him whatsoever he had. But I most wonder he should so far forget himself, to call this *Henry* a Usurper, and detract from the validity of his Acts, because he had no title; whereas there neither is, was, or can be a Usurper if there be any truth in his Doctrin: for he plainly tells us, we are only to look to the power, and not at all to the means and ways by which it is obtain'd; and making no difference between a King and a Tyrant, enjoins an equal submission to the commands of both. If this were only a slip of his Pen, and he did really take this *Henry* to be a Usurper, because he had not a good title, I should desire to know the marks by which a lawful King is distinguish'd from an Usurper, and in what a just Title dos consist. If he place it in an hereditary Succession, we ought to be inform'd, whether this right must be deduc'd from one universal Lord of Mankind, or from a particular Lord of every People: If from the universal Lord, the same descent that gives him a right to the dominion of any one Country, enslaves the whole world to him;

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if from the particular Lord of one place, proof muſt be given how he came to be ſo: for if there was a defect in the firſt, it can never be repair'd, and the poſſeſſion is no more than a continu'd Uſurpation. But having already prov'd the abſurdity of any pretence to either, I ſhall forbear the repetition, and only ſay, that if the courſe of Succeſſion may never be juſtly interrupted, the Family of *Merovæus* could not have had any right to the Crown of *France*; *Pepin* was a Uſurper, if it muſt for ever have continu'd in the deſcendents of *Merovæus*, and *Hugh Capet* could have no title, if the Race of *Pepin* might not be diſpoſſeſt. I leave our Author to diſpute this point with the King of *France*; and when he has ſo far convinc'd him thathe is a Uſurper, as to perſuade him to reſign his Crown to the Houſe of *Auſtria* claiming from *Pharamond*, or to that of *Lorrain* as deſcended from *Pepin*, I can give him half a dozen more knots which will not be with leſs difficulty unty'd, and which inſtead of eſtabliſhing the Titles of ſuch Kings as are known to us, will overthrow them all, unleſs a Right be given to Uſurpation, or the conſent of a People do confer it. SECT. 30.

But if there be ſuch a thing as a Uſurper, and a Rule by which men may judg of Uſurpation, 'tis not only lawful but neceſſary to examin the Titles of ſuch as go under the name of Kings, that we may know whether they are truly ſo or not, leſt thro ignorance we chance to give the Veneration and Obedience that is due to a King, to one who is not a King, and deny it to him, who by an uninterruptible Line of Deſcent is our natural Lord; and thereby prefer the worſt of men and our moſt bitter enemy before the Perſon we ought to look upon as our Father: and if this prove dangerous to one or more Kings, 'tis our Author's fault, not mine.

If there be no Uſurper, nor Rule of diſtinguiſhing him from a lawful Prince, *Filmer* is the worſt of all triflers and impoſtors, who grounds his Arguments in the moſt ſerious matters upon what he eſteems to be falſe; but the truth is, he ſeems to have ſet himſelf againſt humanity and common ſenſe, as much as againſt Law and Vertue: and if he who ſo frequently contradicts himſelf, can be ſaid to mean any thing, he would authorize rapine and murder, and perſuade us to account thoſe to be rightful Kings, who by treachery and other unjuſt means overthrow the right of Deſcent which he pretends to eſteem ſacred, as well as the Libertys of Nations, which by better Judges are thought to be ſo; and gives the odious name of Uſurpation to the Advancement of one who is made King by the conſent of a willing People.

But if *Henry* the Firſt were a Uſurper, I deſire to know whether the ſame name belongs to all our Kings, or which of them deſerves a better; that we may underſtand whoſe acts ought to be reputed legal, and to whoſe Deſcent we owe veneration, or whether we are wholly exempted from all: for I cannot ſee a poſſibility of fixing the guilt of Uſurpation upon *Henry* the Firſt, without involving many, if not all our Kings in the ſame.

If his Title was not good becauſe his Brother *Robert* was ſtill living, that of *Rufus* is by the ſame reaſon overthrown; and *William* their Father being a baſtard could have none. This fundamental defect could never be repair'd: for the Succeſſors could inherit no more than the right of the firſt, which was nothing. *Stephen* could deduce no Title either from *Norman* or *Saxon*; whatſoever *Henry* the Second pretended, muſt be from his Mother *Maud*, and any other might have bin preſer'd before her as well as he. If her Title was from the *Normans*, it muſt be void,

ſince

CHAP. III.

ſince they had none, and the ſtory of *Edgar Atheling* is too impertinent to deſerve mention. But however, it could be of no advantage to her; for *David* King of *Scotland*, Brother to her Mother from whom only her Title could be deriv'd, was then alive with his Son *Henry*, who dying not long after, left three Sons and three Daughters, whoſe poſterity being diſtributed into many Familys of *Scotland*, remains to this day; and if proximity of blood is to be conſider'd, ought always to have bin prefer'd before her and her Deſcendents, unleſs there be a Law that gives the preference to Daughters before Sons. What right ſoever *Henry* the Second had, it muſt neceſſarily have periſh'd with him, all his Children having bin begotten in manifeſt Adultery on *Eleanor* of *Gaſcony*, during the life of *Lewis* King of *France* her firſt Husband: and nothing could be alledg'd to color the buſineſs, but a Diſpenſation from the Pope directly againſt the Law of God, and the words of our Saviour, who ſays, *That a Wife cannot be put away unleſs for Adultery, and he that marrys her that is put away commits Adultery.* The pollution of this ſpring is not to be cur'd; but tho it ſhould paſs unregarded, no one part of the Succeſſion ſince that time has remain'd intire. *John* was prefer'd before *Arthur* his elder Brother's Son: *Edward* the Third was made King by the depoſition of his Father: *Henry* the Fourth by that of *Richard* the Second. If the Houſe of *Mortimer* or *York* had the right, *Henry* the *4th*, *5th*, and *6th* were not Kings, and all who claim under them have no Title. However, *Richard* the Third could have none; for the Children of his elder Brother the Duke of *Clarence* were then living. The Children of *Edward* the Fourth may be ſuſpected of Baſtardy; and tho it may have bin otherwiſe, yet that matter is not ſo clear as things of ſuch importance ought to be, and the conſequence may reach very far. But tho that ſcruple were remov'd, 'tis certain that *Henry* the Seventh was not King in the right of his Wife *Elizabeth*, for he reign'd before and after her; and for his other Titles, we may believe *Philip de Commines*, who ſays, *He had neither croſs nor pile.* If *Henry* the Eighth had a right in himſelf, or from his Mother, he ſhould have reign'd immediately after her death, which he never pretended, nor to ſucceed till his Father was dead, thereby acknowledging he had no right but from him, unleſs the Parliament and People can give it. The like may be ſaid of his Children. *Mary* could have no Title if ſhe was a Baſtard, begotten in Inceſt; but if her Mother's Marriage was good and ſhe legitimate, *Elizabeth* could have none.

Mem. de Commin.

Yet all theſe were lawful Kings and Queens; their Acts continue in force to this day to all intents and purpoſes: the Parliament and People made them to be ſo, when they had no other Title. The Parliament and People therefore have the power of making Kings: Thoſe who are ſo made are not Uſurpers: We have had none but ſuch for more than ſeven hundred years. They were therefore lawful Kings, or this Nation has had none in all that time; and if our Author like this concluſion, the account from whence it is drawn may without difficulty be carry'd as high as our *Engliſh* Hiſtorys do reach.

This being built upon the ſteddy Foundation of Law, Hiſtory and Reaſon, is not to be remov'd by any Man's opinion; eſpecially by one accompany'd with ſuch circumſtances as Sir *Walter Raleigh* was in during the laſt years of his life: And there is ſomething of baſeneſs, as well as prevarication, in turning the words of an eminent Perſon, reduc'd to great difficultys, to a ſenſe no way agreeing with his former Actions or Writings, and no leſs tending to impair his Reputation than to deceive others.

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Our Author is highly guilty of both, in citing Sir *Walter Raleigh* to invalidate the Great Charter of our Libertys, as *begun by Uſurpation, and ſhew'd to the world by Rebellion*; whereas no ſuch thing, nor any thing like it in word or principle, can be found in the Works that deſerve to go under his Name. The Dialogue in queſtion, with ſome other ſmall Pieces publiſh'd after his death, deſerve to be eſteem'd ſpurious: Or if, from a deſire of Life, when he knew his Head lay under the Ax, he was brought to ſay things no way agreeing with what he had formerly profeſt, they ought rather to be bury'd in oblivion, than produc'd to blemiſh his Memory. But that the publick Cauſe may not ſuffer by his fault, 'tis convenient the World ſhould be inform'd, that tho he was a well-qualify'd Gentleman, yet his Morals were no way exact, as appears by his dealings with the brave Earl of *Eſſex*. And he was ſo well aſſiſted in his *Hiſtory of the World*, that an ordinary man with the ſame helps might have perform'd the ſame things. Neither ought it to be accounted ſtrange, if that which he writ by himſelf had the tincture of another Spirit, when he was depriv'd of that aſſiſtance, tho his Life had not depended upon the will of the Prince; and he had never ſaid, That * *the bond of Subjects to their Kings ſhould always be wrought out of Iron, and thoſe of Kings to their Subjects out of Cobwebs.* SECT. 31.

SECT. XXXI.

Free Nations have a right of meeting, when and where they pleaſe, unleſs they deprive themſelves of it.

A Perverted Judgment always leads men into a wrong way, and perſuades them to believe that thoſe things favor their cauſe, that utterly overthrow it. For a proof of this, I deſire our Author's words may be conſider'd. *In the former Parliaments*, ſays he, *inſtituted and continu'd ſince* Henry *the Firſt his time, is not to be found the uſage of any natural Liberty of the People: For all thoſe Libertys that are claim'd in Parliament, are Libertys of Grace from the King, and not the Libertys of Nature to the People: For if the Liberty were natural, it would give power to the multitude to aſſemble themſelves, when and where they pleas'd, to beſtow the Sovereignty, and by pactions to limit and direct the exerciſe of it.* And I ſay that Nations being naturally free, may meet, when and where they pleaſe; may diſpoſe of the Sovereignty, and may direct or limit the exerciſe of it, unleſs by their own Act they have depriv'd themſelves of that Right: and there could never have bin a lawful Aſſembly of any People in the World, if they had not had that Power in themſelves. It was prov'd in the preceding Section, that all our Kings having no Title, were no more than what the Nobility and People made them to be; that they could have no Power but what was given to them, and could confer none except what they had receiv'd. If they can therefore call Parliaments, the power of calling them muſt have bin given to them, and could not be given by any who had it not in themſelves. The *Iſraelites* met together, and choſe *Ehud*, *Gideon*, *Sampſon*, *Jephtha*, and others, to be their Leaders, whom they judg'd fit

* *See Sir* W. Raleigh's *Epiſtle to King* James.

to

CHAP. III. to deliver them from their Enemys. By the ſame right they aſſembl'd at *Miſpeth* to make War againſt the Tribe of *Benjamin*, when Juſtice was deny'd to be done againſt thoſe who had villanouſly abus'd the Levite's Concubine. In the like manner they would have made *Gideon* King, but he refus'd. In the ſame place they met, and choſe *Saul* to be their King. He being dead, the men of *Judah* aſſembl'd themſelves, and anointed *David*: not long after, all the Tribes met at *Hebron*, made a Contract with him, and receiv'd him as their King. In the ſame manner, tho by worſe Counſel, they made *Abſalom* King. And the like was attempted in favor of *Sheba* the Son of *Bichri*, tho they then had a King choſen by themſelves. When they found themſelves oppreſt by the Tributes that had bin laid upon them by *Solomon*, they met at *Shechem*; and being diſpleas'd with *Rehoboam*'s anſwer to their complaints, ten of the Tribes made *Jeroboam* King. *Jehu*, and all the other Kings of *Iſrael*, whether good or bad, had no other Title than was confer'd upon them by the prevailing part of the People; which could not have given them any, unleſs they had met together; nor meet together without the conſent, and againſt the will of thoſe that reign'd, unleſs the Power had bin in themſelves.

Where Governments are more exactly regulated, the Power of judging when 'tis fit to call the Senat or People together, is refer'd to one or more Magiſtrats; as in *Rome* to the Conſuls or Tribuns, in *Athens* to the Archons, and in *Thebes* to the Beotarches: but none of them could have theſe Powers, unleſs they had bin given by thoſe who advanc'd them to the Magiſtracys to which they were annex'd; nor could they have bin ſo annex'd, if thoſe who created them had not had the right in themſelves. If they Officers neglected their duty of calling ſuch Aſſemblys when the publick Affairs requir'd, the People met by their own Authority, and puniſh'd the Perſon, or abrogated the Magiſtracy, as appears in the caſe of the *Decemviri*, and many others that might be alledg'd, if the thing were not ſo plain as to need no further proof. The reaſon of this is, that they who inſtitute a Magiſtracy, beſt know whether the end of the Inſtitution be rightly purſu'd or not: And all juſt Magiſtracys being the ſame in eſſence, tho differing in form, the ſame right muſt perpetually belong to thoſe who put the Sovereign Power into the hands of one, a few, or many men, which is what our Author calls the Diſpoſal of the Sovereignty. Thus the *Romans* did when they created Kings, Conſuls, Military Tribuns, Dictators, or *Decemviri*: and it had bin moſt ridiculous to ſay, that thoſe Officers gave authority to the People to meet and chuſe them; for they who are choſen are the Creatures of thoſe who chuſe, and are nothing more than others till they are choſen. The laſt King of *Sweden*, *Charles Guſtavus*, told a Gentleman who was Embaſſador there, That the *Swedes* having made him King, when he was poor and had nothing in the World, he had but one work to do, which was ſo to reign, that they might never repent the good opinion they had conceiv'd of him. They might therefore meet, and did meet to confer the Sovereignty upon him, or he could never have had it: For tho the Kingdom be hereditary to Males or Females, and his Mother was Siſter to the Great *Guſtavus*; yet having marry'd a ſtranger without the conſent of the Eſtates, ſhe perform'd not the Condition upon which Women are admitted to the Succeſſion; and thereby falling from her Right, he pretended not to any. The Act of his Election declares he had none, and gives the Crown to him and the Heirs of his Body, with this farther Declaration, that the benefit of his Election ſhould no way extend to his Brother Prince *Adolphus*; and

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'tis confeſt by all the *Swediſh* Nation, that if the King now reigning ſhould die without Children, the Eſtates would proceed to a new Election. SECT. 31.

'Tis rightly obſerv'd by our Author, that if the People might meet and give the Sovereign Power, they might alſo direct and limit it; for they did meet in this and other Countrys, they did confer the Sovereign Power, they did limit and direct the exerciſe; and the Laws of each People ſhew in what manner and meaſure it is every where done. This is as certain in relation to Kings, as any other Magiſtrats. The Commiſſion of the *Roman* Dictators was, to take care * *that the Commonwealth might receive no detriment.* The ſame was ſometimes given to the Conſuls: King *Offa*'s Confeſſion, that he was made King † *to preſerve the publick Liberty*, expreſſes the ſame thing: And *Charles Guſtavus*, who ſaid he had no other work, than to govern in ſuch a manner, that they who had made him King might not repent, ſhew'd there was a Rule which he ſtood oblig'd to follow, and an end which he was to procure, that he might merit and preſerve their good opinion. This power of conferring the Sovereignty was exercis'd in *France* by thoſe who made *Meroveus* King, in the prejudice of the two Grandchildren of *Pharamond*, Sons to *Clodion*; by thoſe who excluded his Race, and gave the Crown to *Pepin*; by thoſe who depos'd *Lewis le Debonair*, and *Charles le Groſs*; by thoſe who brought in five Kings, that were either Baſtards or Strangers, between him and *Charles le Simple*; by thoſe who rejected his Race, and advanc'd *Hugh Capet*; by thoſe who made *Henry* the Firſt King, to the prejudice of *Robert* his elder Brother, and continu'd the Crown in the Race of *Henry* for ten Generations, whilſt the Deſcendents of *Robert* were only Dukes of *Burgundy*. The like was done in *Caſtille* and *Arragon*, by frequently preferring the younger before the elder Brother; the Deſcendents of Females before thoſe of the Male-line in the ſame degree; the more remote in Blood before the neareſt; and ſometimes Baſtards before the legitimate Iſſue. The ſame was done in *England* in relation to every King, ſince the coming in of the *Normans*, as I ſhew'd in the laſt Section, and other places of this Work.

That they who gave the Sovereignty, might alſo circumſcribe and direct it, is manifeſt by the ſeveral ways of providing for the Succeſſion inſtituted by ſeveral Nations. Some are merely elective, as the Empire of *Germany* and the Kingdom of *Poland* to this day; the Kingdom of *Denmark* till the year 1660; that of *Sweden* till the time of *Guſtavus Ericſon*, who deliver'd that Nation from the oppreſſion of *Chriſtern* II. the cruel King of the *Danes*. In others the Election was confin'd to one or more Familys, as the Kingdom of the *Goths* in *Spain* to the *Balthei* and *Amalthei*. In ſome, the eldeſt Man of the reigning Family was preferr'd before the neareſt, as in *Scotland* before the time of *Kennethus*. In other places the neareſt in Blood is preferr'd before the elder if more remote. In ſome, no regard is had to Females, or their Deſcendents, as in *France* and *Turky*: in others, they or their Deſcendents are admitted, either ſimply as well as Males; or under a condition of marrying in the Country, or with the conſent of the Eſtates, as in *Sweden*. And no other reaſon can be given for this almoſt infinite variety of Conſtitutions, than that they who made

* Ne quid detrimenti Reſpublica accipiat. *T. Liv.*
† In veſtræ Libertatis tuitionem. *Mat. Par.*

CHAP. III.

them would have it ſo; which could not be, if God and Nature had appointed one General Rule for all Nations. For in that caſe, the Kingdom of *France* muſt be elective, as well as that of *Poland* and the Empire; or the Empire and *Poland* hereditary, as that of *France*: Daughters muſt ſucceed in *France*, as well as in *England*, or be excluded in *England* as in *France*; and he that would eſtabliſh one as the Ordinance of God and Nature, muſt of neceſſity overthrow all the reſt.

De jur. bel. & pac.

A farther exerciſe of the natural Liberty of Nations is diſcover'd in the ſeveral Limitations put upon the Sovereign Power. Some Kings, ſays *Grotius*, have the *Summum Imperium ſummo modo*; others, *modo non ſummo*: and amongſt thoſe that are under Limitations, the degrees as to more or leſs, are almoſt infinite, as I have prov'd already by the example of *Arragon*, antient *Germany*, the *Saxon* Kings, the *Normans*, the Kings of *Caſtille*, the preſent Empire, with divers others. And I may ſafely ſay, that the antient Government of *France* was much of the ſame nature to the time of *Charles* the *7th*, and *Lewis* the *11th*: but the work of emancipating themſelves, as they call it, begun by them, is now brought to perfection in a boundleſs elevation of the King's Greatneſs and Riches, to the unſpeakable miſery of the People.

'Twere a folly to think this Variety proceeds from the Conceſſions of Kings, who naturally delight in Power, and hate that which croſſes their Will. It might with more reaſon be imagin'd, that the *Roman* Conſuls, who were brought up in liberty, who had contracted a love to their Country, and were contented to live upon an equal foot with their fellow Citizens, ſhould confine the Power of their Magiſtracy to a year; or that the Dukes of *Venice* ſhould be graciouſly pleas'd to give power to the *Council of Ten* to puniſh them capitally if they tranſgreſt the Laws, than that Kings ſhould put ſuch Fetters upon their Power, which they ſo much abhor; or that they would ſuffer them, if they could be eaſily broken. If any one of them ſhould prove ſo moderate, like *Trajan*, to command the Prefect of the Pretorian Guard to uſe the Sword for him if he govern'd well, and againſt him if he did not, it would ſoon be reſcinded by his Succeſſor; the Law which has no other ſtrength than the act of one man, may be annul'd by another. So that nothing dos more certainly prove, that the Laws made in ſeveral Countrys to reſtrain the Power of Kings, and variouſly to diſpoſe of the Succeſſion, are not from them, than the frequent examples of their fury, who have expos'd themſelves to the greateſt dangers, and brought infinite miſerys upon the People, thro the deſire of breaking them. It muſt therefore be concluded, that Nations have power of meeting together, and of conferring, limiting, and directing the Sovereignty; or all muſt be grounded upon moſt manifeſt Injuſtice and Uſurpation.

No man can have a power over a Nation otherwiſe than *de jure*, or *de facto*. He who pretends to have a power *de jure*, muſt prove that it is originally inherent in him or his predeceſſor from whom he inherits; or that it was juſtly acquir'd by him. The vanity of any pretence to an original Right appears ſufficiently, I hope, from the proofs already given, that the firſt Fathers of Mankind had it not; or if they had, no man could now inherit the ſame, there being no man able to make good the Genealogy that ſhould give him a right to the Succeſſion. Beſides, the facility we have of proving the beginnings of all the Familys that reign among us, makes it as abſurd for any of them to pretend a perpetual right to Dominion, as for any Citizen of *London*, whoſe Parents and Birth we know, to ſay he is the very man *Noah*, who liv'd in the time of the Flood, and is now four or five thouſand years old.

If

If the power were confer'd on him or his Predeceſſors, 'tis what we ask; for the Collation can be of no value, unleſs made by thoſe who had a right to do it; and the original Right by Deſcent failing, no one can have any over a Free People but themſelves, or thoſe to whom they have given it. SECT. 31.

If Acquiſition be pretended, 'tis the ſame thing; for there can be no right to that which is acquir'd, unleſs the right of invading be prov'd; and that being done, nothing can be acquir'd except what belong'd to the Perſon that was invaded, and that only by him who had the right of invading. No man ever did or could conquer a Nation by his own ſtrength; no man therefore could ever acquire a perſonal right over any; and if it was confer'd upon him by thoſe who made the Conqueſt with him, they were the People that did it. He can no more be ſaid to have the Right originally in and from himſelf, than a Magiſtrate of *Rome* or *Athens* immediately after his Creation; and having no other at the beginning, he can have none to eternity; for the Nature of it muſt refer to the Original, and cannot be chang'd by time.

Whatſoever therefore proceeds not from the conſent of the People, muſt be *de facto* only, that is void of all right; and 'tis impoſſible there ſhould not be a right of deſtroying that which is grounded upon none; and by the ſame rule that one man enjoys what he gain'd by violence, another may take it from him. *Cyrus* overthrew the *Aſſyrians* and *Babylonians*, *Alexander* the *Medes* and *Perſians*; and if they had no right of making war upon thoſe Nations, the Nations could not but have a right of recovering all that had bin unjuſtly taken from them, and avenging the evils they had ſuffer'd. If the cauſe of the war was originally juſt, and not corrupted by an intemperate uſe of the victory, the conquer'd People was perhaps oblig'd to be quiet; but the conquering Armys that confer'd upon their Generals what they had taken from their Enemys, might as juſtly expect an account of what they had given, and that it ſhould be imploy'd according to the intention of the givers, as the People of any City might do from their regularly created Magiſtrats; becauſe it was as impoſſible for *Cyrus*, *Alexander* or *Ceſar*, to gain a power over the Armys they led, without their conſent, as for *Pericles*, *Valerius*, or any other diſarm'd Citizen to gain more power in their reſpective Citys, than was voluntarily confer'd upon them. And I know no other difference between Kingdoms ſo conſtituted by conquering Armys, and ſuch as are eſtabliſh'd in the moſt orderly manner, than that the firſt uſually incline more to War, the latter to Juſtice and Peace. But there have not bin wanting many of the firſt ſort (eſpecially the Nations coming from the North) who were no leſs exact in ordaining that which tended to the preſervation of Liberty, nor leſs ſevere in ſeeing it punctually perform'd, than the moſt regular Commonwealths that ever were in the World. And it can with no more reaſon be pretended, that the *Goths* receiv'd their Privileges from *Alan* or *Theodoric*, the *Francs* from *Pharamond* or *Meroveus*, and the *Engliſh* from *Ina* or *Ethelred*, than that the Liberty of *Athens* was the gift of *Themiſtocles* or *Pericles*, that the Empire of *Rome* proceeded from the liberality of *Brutus* or *Valerius*, and that the Commonwealth of *Venice* at this day ſubſiſts by the favor of the *Contarini* or *Moreſini*: which muſt reduce us to matter of Right, ſince that of Fact void of Right can ſignify nothing.

SECT. XXXII.

The Powers of Kings are ſo various according to the Conſtitutions of ſeveral States, that no Conſequence can be drawn to the prejudice or advantage of any one, merely from the Name.

IN oppoſition to what is above ſaid, ſome alledg the name of *King*, as if there were a charm in the word; and our Author ſeems to put more weight upon it, than in the Reaſons he brings to ſupport his Cauſe. But that we may ſee there is no efficacy in it, and that it conveys no other right than what particular Nations may annex to it, we are to conſider,

1. That the moſt abſolute Princes that are or have bin in the World, never had the name of King: whereas it has bin frequently given to thoſe whoſe powers have bin very much reſtrain'd. The *Ceſars* were never call'd Kings, till the ſixth Age of Chriſtianity: the Caliſs and Soldan of *Egypt* and *Babylon*, the Great *Turk*, the Cham of *Tartary*, or the Great *Mogol* never took that name, nor any other of the ſame ſignification. The *Czar* of *Moſcovy* has it not, tho he is as abſolute a Monarch, and his People as miſerable ſlaves as any in the World. On the other ſide, the chief Magiſtrats of *Rome* and *Athens* for ſome time, thoſe of *Sparta*, *Arragon*, *Sweden*, *Denmark* and *England*, *who could do nothing but by Law*, have bin call'd Kings. This may be enough to ſhew, that a Name being no way eſſential, what Title ſoever is given to the Chief Magiſtrate, he can have no other power than the Laws and Cuſtoms of his Country do give, or the People confer upon him.

2. The names of Magiſtrats are often chang'd, tho the power continue to be the ſame; and the powers are ſometimes alter'd tho the name remain. When *Octavius Ceſar* by the force of a mad corrupted Soldiery had overthrown all Law and Right, he took no other Title in relation to Military Affairs than that of *Imperator*, which in the time of Liberty was by the Armys often given to Pretors and Conſuls: In Civil matters he was, as he pretended, * content with the power of Tribun; and the like was obſerv'd in his Succeſſor, who to new invented Uſurpations, *gave old and approv'd names*. On the other ſide, thoſe Titles which have bin render'd odious and execrable by the violent exerciſe of an abſolute Power, are ſometimes made popular by moderate limitations; as in *Germany*, where, tho the Monarchy ſeem to be as well temper'd as any, the Princes retain the ſame names of *Imperator*, *Ceſar* and *Auguſtus*, as thoſe had done, who by the exceſs of their rage and fury had deſolated and corrupted the beſt part of the World.

Saavedra. Mariana. Zurita.

Sometimes the name is chang'd, tho the power in all reſpects continue the ſame. The Lords of *Caſtille* had for many Ages no other Title than that of Count; and when the Nobility and People thought good, they chang'd it to that of King, without any addition to the power.

The Sovereign Magiſtrat in *Poland* was call'd Duke till within the laſt two hundred years, when they gave the title of King to one of the *Jagellan* Family; which title has continu'd to this day, tho without any change in the nature of the Magiſtracy. And I preſume, no wiſe man will think, that if the *Venetians* ſhould give the name of King to their Duke, it could

* Tribunitia poteſtate contentus. *C. Tacit.*

conſer

confer any other power upon him than he has already, unleſs more ſhould be confer'd by the Authority of the *Great Council.* SECT. 32.

3. The ſame names which in ſome places denote the Supreme Magiſtracy, in others are ſubordinate or merely titular. In *England*, *France* and *Spain*, Dukes and Earls are Subjects: in *Germany* the Electors and ſome Princes who are call'd by thoſe names, are little leſs than Sovereigns; and the Dukes of *Savoy*, *Tuſcany*, *Moſcovy* and others, acknowledg no Superior, as well as thoſe of *Poland* and *Caſtille* had none, when they went under thoſe titles. The ſame may be ſaid of Kings. Some are ſubject to a foreign power, as divers of them were ſubject to the *Perſian* and *Babylonian* Monarchs, who for that reaſon were call'd the Kings of Kings. Some alſo are tributarys; and when the *Spaniards* firſt landed in *America*, the great Kings of *Mexico* and *Peru* had many others under them. Threeſcore and ten Kings gather'd up meat under the Table of *Adonibezek*. The *Romans* had many Kings depending upon them. *Herod* and thoſe of his Race were of this number; and the diſpute between him and his Sons *Ariſtobulus* and *Alexander*, was to be determin'd by them; neither durſt he decide the matter till it was refer'd to him. But a right of Appeal did ſtill remain, as appears by the caſe of St. *Paul* when *Agrippa* was King. The Kings of *Mauritania* from the time of *Maſſiniſſa*, were under the like dependence: *Jugurtha* went to *Rome* to juſtify himſelf for the death of *Micipſa*: *Juba* was commanded by the *Roman* Magiſtrats, *Scipio*, *Petreius* and *Afranius*; another *Juba* was made King of the ſame Country by *Auguſtus*, and *Tiridates* of *Armenia* by *Nero*; and infinite examples of this nature may be alledg'd. Moreover, their powers are variouſly regulated, according to the variety of tempers in Nations and Ages. Some have reſtrain'd the powers that by experience were found to be exorbitant; others have diſſolv'd the bonds that were laid upon them: and Laws relating to the Inſtitution, Abrogation, Enlargement or Reſtriction of the Regal Power, would be utterly inſignificant if this could not be done. But ſuch Laws are of no effect in any other Country than where they are made. The lives of the *Spartans* did not depend upon the will of *Ageſilaus* or *Leonidas*, becauſe *Nabuchodonoſor* could kill or ſave whom he pleas'd: and tho the King of *Marocco* may ſtab his Subjects, throw them to the Lions, or hang them upon tenterhooks; yet a King of *Poland* would probably be call'd to a ſevere account, if he ſhould unjuſtly kill a ſingle man.

SECT. XXXIII.

The Liberty of a People is the Gift of God and Nature.

IF any man ask how Nations come to have the power of doing theſe things, I anſwer, That Liberty being only an exemption from the dominion of another, the queſtion ought not to be, how a Nation can come to be free, but how a man comes to have a dominion over it; for till the right of Dominion be prov'd and juſtify'd, Liberty ſubſiſts as ariſing from the Nature and Being of a man. *Tertullian* ſpeaking of the Emperors ſays, *Ab eo Imperium à quo ſpiritus*; and we taking man in his firſt condition may juſtly ſay, *ab eo Libertas à quo ſpiritus*; for no man can owe more than he has receiv'd. The Creature having nothing, and being nothing but what the Creator makes him, muſt owe all to him, and nothing to any one from whom he has receiv'd nothing. Man there-

fore

CHAP. III. fore muſt be naturally free, unleſs he be created by another power than we have yet heard of. The obedience due to Parents ariſes from hence, in that they are the inſtruments of our Generation; and we are inſtructed by the light of Reaſon, that we ought to make great returns to thoſe from whom under God we have receiv'd all. When they die we are their Heirs, we enjoy the ſame rights, and devolve the ſame to our Poſterity. God only, who confers this right upon us, can deprive us of it: and we can no way underſtand he dos ſo, unleſs he had ſo declar'd by expreſs Revelation, or had ſet ſome diſtinguiſhing marks of Dominion and Subjection upon men; and, as an ingenious Perſon not long ſince ſaid, caus'd ſome to be born with Crowns on their heads, and all others with Saddles upon their backs. This Liberty therefore muſt continue, till it be either forfeited or willingly reſign'd. The forfeiture is hardly comprehenſible in a multitude that is not enter'd into any Society; for as they are all equal, and **equals can have no right over each other*, no man can forfeit any thing to one who can juſtly demand nothing, unleſs it may be by a perſonal injury, which is nothing to this caſe; becauſe where there is no Society, one man is not bound by the actions of another. All cannot join in the ſame Act, becauſe they are join'd in none; or if they ſhould, no man could recover, much leſs tranſmit the forfeiture; and not being tranſmitted, it periſhes as if it had never bin, and no man can claim any thing from it.

'Twill be no leſs difficult to bring reſignation to be ſubſervient to our Author's purpoſe; for men could not reſign their Liberty, unleſs they naturally had it in themſelves. Reſignation is a publick declaration of their aſſent to be govern'd by the Perſon to whom they reſign; that is, they do by that Act conſtitute him to be their Governor. This neceſſarily puts us upon the inquiry, Why they do reſign, how they will be govern'd, and proves the Governor to be their creature; and the right of diſpoſing the Government muſt be in them, or they who receive it can have none. This is ſo evident to common ſenſe, that it were impertinent to ask who made *Carthage*, *Athens*, *Rome* or *Venice* to be free Citys. Their Charters were not from men, but from God and Nature. When a number of *Phenicians* had found a Port on the Coaſt of *Africa*, they might perhaps agree with the Inhabitants for a parcel of Ground, but they brought their Liberty with them. When a company of *Latins*, *Sabins* and *Tuſcans* met together upon the Banks of the *Tiber*, and choſe rather to build a City for themſelves, than to live in ſuch as were adjacent, they carry'd their Liberty in their own Breaſts, and had Hands and Swords to defend it. This was their Charter; and *Romulus* could confer no more upon them, than *Dido* upon the *Carthaginians*. When a multitude of barbarous Nations infeſted *Italy*, and no protection could be expected from the corrupted and periſhing Empire, ſuch as agreed to ſeek a place of refuge in the ſcatter'd Iſlands of the *Adriatick* Gulf, had no need of any man's Authority to ratify the Inſtitution of their Government. They who were the formal part of the City, and had built the material, could not but have a right of governing as they pleas'd, ſince if they did amiſs, the hurt was only to themſelves. 'Tis probable enough that ſome of the *Roman* Emperors, as Lords of the Soil, might have pretended to a Dominion over them, if there had bin any color for it: but nothing of that kind appearing in thirteen hundred years, we are not like to hear of any

* Par in parem non habet imperium.

ſuch

ſuch cavils. 'Tis agreed by Mankind, that ſubjection and protection are relative; and that he who cannot protect thoſe that are under him, in vain pretends to a Dominion over them. The only ends for which Governments are conſtituted, and obedience render'd to them, are the obtaining of Juſtice and Protection; and they who cannot provide for both, give the People a right of taking ſuch ways as beſt pleaſe themſelves, in order to their own ſafety. SECT. 33.

The matter is yet more clear in relation to thoſe who never were in any Society, as at the beginning, or renovation of the World after the Flood; or who upon the diſſolution of the Societys to which they did once belong, or by ſome other accident, have bin oblig'd to ſeek new habitations. Such were thoſe who went from *Babylon* upon the confuſion of Tongues, thoſe who eſcap'd from *Troy* when it was burnt by the *Grecians*; almoſt all the Nations of *Europe*, with many of *Aſia* and *Africa*, upon the diſſolution of the *Roman* Empire. To which may be added a multitude of Northern Nations, who, when they had increas'd to ſuch numbers that their Countrys could no longer nouriſh them, or becauſe they wanted skill to improve their Lands, were ſent out to provide for themſelves, and having done ſo, did erect many Kingdoms and States, either by themſelves, or in union and coalition with the antient Inhabitants.

'Tis in vain to ſay, that whereſoever they came, the Land did belong to ſome body, and that they who came to dwell there muſt be ſubject to the Laws of thoſe who were Lords of the Soil, for that is not always true in fact. Some come into deſert Countrys that have no Lord, others into ſuch as are thinly peopled, by men who knowing not how to improve their Land, do either grant part of it upon eaſy terms to the new comers, or grow into a union with them in the enjoyment of the whole; and Hiſtorys furniſh us with infinite examples of this nature.

If we will look into our own original, without troubling our ſelves with the ſenſleſs ſtorys of *Samothes* the Son of *Japhet*, and his Magicians, or the Giants begotten by Spirits upon the thirty Daughters of *Danaus*, ſent from *Phenicia* in a Boat without Sails, Oars or Rudder, we ſhall find that when the *Romans* abandon'd this Iſland, the Inhabitants were left to a full liberty of providing for themſelves: and whether we deduce our Original from them or the *Saxons*, or from both, our Anceſtors were perfectly free; and the *Normans* having inherited the ſame Right when they came to be one Nation with the former, we cannot but continue ſo ſtill, unleſs we have enſlav'd our ſelves.

Nothing is more contrary to reaſon than to imagin this. When the fierce barbarity of the *Saxons* came to be ſoftned by a more gentle Climat, the Arts and Religion they learnt, taught them to reform their Manners, and better enabled them to frame Laws for the preſervation of their Liberty, but no way dimiſh'd their love to it: and tho the *Normans* might deſire to get the Laads of thoſe who had join'd with *Harold*, and of others into their hands; yet when they were ſettled in the Country, and by marriages united to the antient Inhabitants, they became true Engliſhmen, and no leſs lovers of Liberty, and reſolute defenders of it, than the *Saxons* had bin. There was then neither conquering *Norman* nor conquer'd *Saxon*, but a great and brave People compos'd of both, united in blood and intereſt in the defence of their common Rights, which they ſo well maintain'd, that no Prince ſince that time has too violently encroach'd upon them, who, as the reward of his folly, has not liv'd miſerably, and dy'd ſhamefully.

CHAP. III.

Such actions of our Anceſtors do not, as I ſuppoſe, ſavor much of the ſubmiſſion which patrimonial ſlaves do uſually render to the will of their Lord. On the contrary, whatſoever they did was by a power inherent in themſelves to defend that Liberty in which they were born. All their Kings were created upon the ſame condition, and for the ſame ends. *Alfred* acknowledg'd he found and left them perfectly free; and the confeſſion of *Offa*, that they had not made him King for his own merits, but for the defence of their Liberty, comprehends all that were before and after him. They well knew how great the honor was, to be made Head of a great People, and rigorouſly exacted the performance of the ends for which ſuch a one was elevated, ſeverely puniſhing thoſe who baſely and wickedly betray'd the Truſt repos'd in them, and violated all that is moſt ſacred among men; which could not have bin unleſs they were naturally free, for the Liberty that has no being cannot be defended.

SECT. XXXIV.

No Veneration paid, or Honor confer'd upon a juſt and lawful Magiſtrate, can diminiſh the Liberty of a Nation.

SOME have ſuppos'd, that tho the People be naturally free, and Magiſtrats created by them, they do by ſuch Creations deprive themſelves of that natural Liberty; and that the names of *King*, *Sovereign Lord*, and *Dread Sovereign*, being no way conſiſtent with Liberty, they who give ſuch Titles do renounce it. Our Author carrys this very far, and lays great weight upon the ſubmiſſive Language us'd by the People, when they *humbly crave that his Majeſty would be pleas'd to grant their accuſtom'd freedom of ſpeech, and acceſs to his Perſon*; and *give the name of Supplications and Petitions to the Addreſſes made to him:* Whereas he anſwers in the haughty Language of *Le Roy le veut*, *Le Roy s'aviſera*, and the like. But they who talk at this rate, ſhew, that they neither underſtand the nature of Magiſtracy, nor the practice of Nations. Thoſe who have liv'd in the higheſt exerciſe of their Liberty, and have bin moſt tenacious of it, have thought no Honor too great for ſuch Magiſtrats as were eminent in the defence of their Rights, and ſet up for that end. The name of Dread Sovereign might juſtly have bin given to a *Roman* Dictator, or Conſul, for they had the Sovereign Authority in their hands, and power ſufficient for its execution. Whilſt their Magiſtracy continu'd, they were a terror to the ſame men, whoſe Axes and Rods had bin a terror to them the year or month before, and might be ſo again the next. The *Romans* thought they could not be guilty of exceſs in carrying the power and veneration due to their Dictator to the higheſt: And *Livy* tells us, that his * *Edicts were eſteem'd ſacred.* I have already ſhewn that this haughty People, who might have commanded, condeſcended to join with their Tribuns in a Petition to the Dictator *Papirius*, for the Life of *Quintus Fabius*, who had fought a Battel in his abſence, and without his order, tho he had gain'd a great and memorable Victory. The ſame *Fabius*, when Conſul, was commended by his Father *Q. Fabius Maximus*,

* Edictum Dictatoris pro numine obſervatum. *Hiſt.* l. 8.

for

for obliging him by his Lictors to diſmount from his Horſe, and to pay him the ſame reſpect that was due from others. The Tribuns of the People, who were inſtituted for the preſervation of Liberty, were alſo eſteem'd ſacred and inviolable, as appears by that phraſe, *Sacroſancta Tribunorum poteſtas*, ſo common in their antient Writers. No man, I preſume, thinks any Monarchy more limited, or more clearly deriv'd from a delegated Power, than that of the *German* Emperors; and yet *Sacrâ Cæſarea Majeſtas* is the publick ſtile. Nay, the *Hollanders* at this day call their Burgermaſters, tho they ſee them ſelling Herring or Tar, *High and Mighty Lords*, as ſoon as they are advanc'd to be of the 36, 42 or 48 Magiſtrats of a ſmall Town. 'Tis no wonder therefore, if a great Nation ſhould think it conducing to their own glory, to give magnificent Titles, and uſe ſubmiſſive language to that one man, whom they ſet up to be their Head; moſt eſpecially, if we conſider that they came from a Country where ſuch Titles and Languages were principally invented. SECT. 34.

Among the *Romans* and *Grecians* we hear nothing of Majeſty, Highneſs, Serenity and Excellence appropriated to a ſingle Perſon, but receive them from *Germany* and other Northern Countrys. We find *Majeſtas Populi Romani*, and *Majeſtas Imperii*, in their beſt Authors; but no man ſpeaking to *Julius* or *Auguſtus*, or even to the vaineſt of their Succeſſors, ever us'd thoſe empty Titles, nor took upon themſelves the name of Servants, as we do to every fellow we meet in the Streets. When ſuch ways of ſpeaking are once introduc'd, they muſt needs ſwell to a more than ordinary height in all tranſactions with Princes. Moſt of them naturally delight in vanity, and Courtiers never ſpeak more truth than when they moſt extol their Maſters, and aſſume to themſelves the names that beſt expreſs the moſt abject ſlavery. Theſe being brought into mode, like all ill Cuſtoms, increaſe by uſe; and then no man can omit them without bringing that danger and hatred upon himſelf, which few will undergo, except for ſomething that is evidently of great importance. Matters of ceremony and title at the firſt ſeem not to be ſo; and being for ſome time neglected, they acquire ſuch ſtrength as not to be eaſily remov'd. From private Uſage they paſs into publick Acts; and thoſe Flatterers who gave a beginning to them, propoſing them in publick Councils, where too many of that ſort have always inſinuated themſelves, gain credit enough to make them paſs. This work was farther advanc'd by the Church of *Rome*, according to their cuſtom of favouring that moſt, which is moſt vain and corrupt; and it has bin uſual with the Popes and their adherents, liberally to gratify Princes for Services render'd to the Church, with Titles that tended only to the prejudice of the people. Theſe poiſonous Plants having taken root, grew up ſo faſt, that the Titles, which, within the ſpace of a hundred years, were thought ſufficient for the Kings and Queens of *England*, have of late bin given to *Monk* and his honourable Dutcheſs. New phraſes have bin invented to pleaſe Princes, or the ſenſe of the old perverted, as has happen'd to that of *Le Roy s' aviſera*: And that which was no more than a liberty to conſult with the Lords upon a Bill preſented by the Commons, is by ſome men now taken for a Right inherent in the King of denying ſuch Bills as may be offer'd to him by the Lords and Commons; tho the Coronation Oath obliges him to hold, keep and defend the juſt Laws and Cuſtoms, *quas vulgus elegerit*. And if a ſtop be not put to this exorbitant abuſe, the words ſtill remaining in Acts of Parliament, which ſhew that their Acts are our Laws, may perhaps be alſo aboliſh'd.

But tho this ſhould come to paſs, by the ſlackneſs of the Lords and Commons, it could neither create a new Right in the King, nor diminiſh that of the People: But it might give a better color to thoſe who are Enemys to their Country, to render the Power of the Crown arbitrary, than any thing that is yet among us.

SECT. XXXV.

The Authority given by our Law to the Acts perform'd by a King de facto, *detract nothing from the Peoples right of creating whom they pleaſe.*

THEY who have more regard to the prevailing Power than to Right, and lay great weight upon the Statute of *Henry* the ſeventh, which authorizes the Acts of a *King de facto*, ſeem not to conſider, that thereby they deſtroy all the pretended right of Inheritance; that he only is King *de facto*, who is receiv'd by the People; and that this reception could neither be of any value in it ſelf, nor be made valid by a Statute, unleſs the People, and their Repreſentatives who make the Statute, had in themſelves the power of receiving, authorizing and creating whom they pleaſe. For he is not King *de facto* who calls himſelf ſo, as *Perkin* or *Simnel*, but he who by the conſent of the Nation is poſſeſt of the Regal Power. If there were ſuch a thing in nature, as a natural Lord over every Country, and that the right muſt go by deſcent, it would be impoſſible for any other man to acquire it, or for the people to confer it upon him, and to give the Authority to the Acts of one, who neither is nor can be a King, which belongs only to him who has the right inherent in himſelf, and inſeparable from him. Neither can it be deny'd, that the ſame power which gives the validity to ſuch Acts as are perform'd by one who is not a King, that belongs to thoſe of a true King, may alſo make him King; for the eſſence of a King conſiſts in the validity of his Acts. And 'tis equally abſurd for one to pretend to be a King, whoſe Acts as King are not valid, as that his own can be valid, if thoſe of another are; for then the ſame indiviſible Right which our Author, and thoſe of his principles aſſert to be inſeparable from the Perſon, would be at the ſame time exercis'd and enjoy'd by two diſtinct and contrary Powers.

Moreover, it may be obſerv'd, that this Statute was made after frequent and bloody Wars concerning Titles to the Crown; and whether the cauſe were good or bad, thoſe who were overcome, were not only ſubject to be kill'd in the field, but afterwards to be proſecuted as Traitors under the color of Law. He who gain'd the Victory, was always ſet up to be King by thoſe of his party; and he never fail'd to proceed againſt his Enemys as Rebels. This introduc'd a horrid ſeries of the moſt deſtructive miſchiefs. The Fortune of War vary'd often; and I think it may be ſaid, that there were few, if any, great Familys in *England*, that were not either deſtroy'd, or at leaſt ſo far ſhaken, as to loſe their Chiefs, and many conſiderable branches of them: And experience taught, that inſtead of gaining any advantage to the Publick in point of Govern-

ment, he for whom they fought ſeldom prov'd better than his Enemy. They ſaw that the like might again happen, tho the title of the reigning King ſhould be as clear as deſcent of blood could make it. This brought things into an uneaſy poſture; and 'tis not ſtrange, that both the Nobility and Commonalty ſhould be weary of it. No Law could prevent the dangers of battel; for he that had followers, and would venture himſelf, might bring them to ſuch a deciſion, as was only in the hand of God. But thinking no more could juſtly be requir'd to the full performance of their Duty to the King, than to expoſe themſelves to the hazard of battel for him; and not being anſwerable for the ſucceſs, they would not have that Law which they endeavour'd to ſupport, turn'd to their deſtruction by their Enemys, who might come to be the interpreters of it. But as they could be exempted from this danger only by their own Laws, which could authorize the Acts of a King without a Title, and juſtify them for acting under him; 'tis evident that the power of the Law was in their hands, and that the acts of the perſon who enjoy'd the Crown, were of no value in themſelves. The Law had bin impertinent, if it could have bin done without Law; and the Intervention of the Parliament uſeleſs, if the Kings *de facto* could have given authority to their own Acts. But if the Parliament could make that to have the effect of Law, which was not Law, and exempt thoſe that acted according to it from the penaltys of the Law, and give the ſame force to the Acts of one who is not King as of one who is, they cannot but have a power of making him to be King, who is not ſo; that is to ſay, all depends intirely upon their Authority. SECT. 35.

Beſides, he is not King who aſſumes the title to himſelf, or is ſet up by a corrupt party; but he who according to the uſages requir'd in the caſe is made King. If theſe are wanting, he is neither *de facto* nor *de jure*, but *Tyrannus ſine Titulo*. Nevertheleſs, this very man, if he comes to be receiv'd by the People, and plac'd in the Throne, he is thereby made King *de facto*. His Acts are valid in Law; the ſame ſervice is due to him as to any other: they who render it are in the ſame manner protected by the Law; that is to ſay, he is truly King. If our Author therefore do allow ſuch to be Kings, he muſt confeſs that power to be good which makes them ſo, when they have no right in themſelves. If he deny it, he muſt not only deny that there is any ſuch thing as a King *de facto*, which the Statute acknowledges, but that we ever had any King in *England*; for we never had any other than ſuch, as I have prov'd before.

By the ſame means he will ſo unravel all the Law, that no man ſhall know what he has, or what he ought to do or avoid; and will find no remedy for this, unleſs he allow, that Laws made without Kings are as good as thoſe made with them, which returns to my purpoſe: for they who have the power of making Laws, may by Law make a King as well as any other Magiſtrate. And indeed the intention of this Statute could be no other than to ſecure mens Perſons and Poſſeſſions, and ſo far to declare the power of giving and taking away the Crown to be in the Parliament, as to remove all diſputes concerning Titles, and to make him to be a Legal King, whom they acknowledg to be King.

SECT. XXXVI.

The general revolt of a Nation cannot be call'd a Rebellion.

AS Impoſtors ſeldom make lies to paſs in the world, without putting falſe names upon things, ſuch as our Author endeavour to perſuade the People they ought not to defend their Libertys, by giving the name of Rebellion to the moſt juſt and honourable actions that have bin perform'd fer the preſervation of them; and to aggravate the matter, tell us that Rebellion is like the ſin of Witchcraft. But thoſe who ſeek after truth, will eaſily find, that there can be no ſuch thing in the world as the rebellion of a Nation againſt its own Magiſtrats, and that Rebellion is not always evil. That this may appear, it will not be amiſs to conſider the word, as well as the thing commonly underſtood by it, as it is us'd in an evil ſenſe.

The word is taken from the Latin *rebellare*, which ſignifys no more than to renew a war. When a Town or Province had bin ſubdu'd by the *Romans*, and brought under their dominion, if they violated their Faith after the ſettlement of Peace, and invaded their Maſters who had ſpar'd them, they were ſaid to rebel. But it had bin more abſurd to apply that word to the People that roſe againſt the *Decemviri*, Kings or other Magiſtrats, than to the *Parthians* or any of thoſe Nations who had no dependence upon them; for all the circumſtances that ſhould make a Rebellion were wanting, the word implying a ſuperiority in them againſt whom it is, as well as the breach of an eſtabliſh'd Peace. But tho every private man ſingly taken be ſubject to the commands of the Magiſtrate, the whole body of the People is not ſo; for he is by and for the People, and the People is neither by nor for him. The obedience due to him from private men is grounded upon, and meaſur'd by the General Law; and that Law regarding the welfare of the People, cannot ſet up the intereſt of one or a few men againſt the publick. The whole body therefore of a Nation cannot be ty'd to any other obedience than is conſiſtent with the common good, according to their own judgment: and having never bin ſubdu'd or brought to terms of peace with their Magiſtrats, they cannot be ſaid to revolt or rebel againſt them, to whom they owe no more than ſeems good to themſelves, and who are nothing of or by themſelves, more than other men.

Again, the thing ſignify'd by rebellion is not always evil; for tho every ſubdu'd Nation muſt acknowledg a ſuperiority in thoſe who have ſubdu'd them, and rebellion dos imply a breach of the peace, yet that ſuperiority is not infinite; the peace may be broken upon juſt grounds, and it may be neither a crime nor infamy to do it. The *Privernates* had bin more than once ſubdu'd by the *Romans*, and had as often rebel'd. Their City was at laſt taken by *Plautius* the Conſul, after their Leader *Vitruvius* and great numbers of their Senat and People had bin kill'd: Being reduc'd to a low condition, they ſent Embaſſadors to *Rome* to deſire peace; where when a Senator ask'd them what puniſhment they deſerv'd, one of them anſwer'd, *The ſame which they deſerve who think themſelves worthy of Liberty.* The Conſul then demanded, *what kind of Peace might*

T. Liv. l. 8.

be expected from them, if the puniſhment ſhould be remitted: The Embaſſador anſwer'd, * *If the terms you give be good, the Peace will be obſerv'd by us faithfully and perpetually; if bad, it will ſoon be broken.* And tho ſome were offended with the ferocity of the anſwer, yet the beſt part of the Senat approv'd it as † *worthy of a man and a freeman*; and confeſſing that no Man or Nation would continue under an uneaſy condition longer than they were compel'd by force, ſaid, ‖ *They only were fit to be made* Romans, *who thought nothing valuable but Liberty.* Upon which they were all made Citizens of *Rome*, and obtain'd whatſoever they had deſir'd. SECT. 36.

I know not how this matter can be carry'd to a greater height; for if it were poſſible, that a People reſiſting oppreſſion, and vindicating their own Liberty, could commit a crime, and incur either guilt or infamy, the *Privernates* did, who had bin often ſubdu'd, and often pardon'd; but even in the judgment of their Conquerors whom they had offended, the reſolution they profeſt of ſtanding to no agreement impos'd upon them by neceſſity, was accounted the higheſt teſtimony of ſuch a Vertue as render'd them worthy to be admitted into a Society and equality with themſelves, who were the moſt brave and vertuous people of the world.

But if the patience of a conquer'd People may have limits, and they who will not bear oppreſſion from thoſe who had ſpar'd their Lives, may deſerve praiſe and reward from their conquerors, it would be madneſs to think, that any Nation can be oblig'd to bear whatſoever their own Magiſtrats think fit to do againſt them. This may ſeem ſtrange to thoſe who talk ſo much of conqueſts made by Kings; Immunitys, Libertys and Privileges granted to Nations; Oaths of Allegiance taken, and wonderful benefits confer'd upon them. But having already ſaid as much as is needful concerning Conqueſts, and that the Magiſtrate who has nothing except what is given to him, can only diſpenſe out of the publick Stock ſuch Franchiſes and Privileges as he has receiv'd for the reward of Services done to the Country, and encouragement of Vertue, I ſhall at preſent keep my ſelf to the two laſt points.

Allegiance ſignifys no more (as the words *ad legem* declare) than ſuch an obedience as the Law requires. But as the Law can require nothing from the whole People, who are maſters of it, Allegiance can only relate to particulars, and not to the whole Nation. No Oath can bind any other than thoſe who take it, and that only in the true ſenſe and meaning of it: but ſingle men only take this Oath, and therefore ſingle men are only oblig'd to keep it: the body of a People neither dos, nor can perform any ſuch act: Agreements and Contracts have bin made; as the Tribe of *Judah*, and the reſt of *Iſrael* afterward, made a Covenant with *David*, upon which they made him King; but no wiſe man can think, that the Nation did thereby make themſelves the Creature of their own Creature.

The ſenſe alſo of an Oath ought to be conſider'd. No man can by an Oath be oblig'd to any thing beyond, or contrary to the true meaning of it; private men who ſwear obedience *ad Legem*, ſwear no obedience *extra* or *contra Legem:* whatſoever they promiſe or ſwear, can detract nothing from the publick Liberty, which the Law principally intends to preſerve. Tho many of them may be oblig'd in their ſeveral Stations and Capacitys to render peculiar ſervices to a Prince, the People continue as free as the

* Si bonam dederitis, fidam & perpetuam; ſi malam, haud diuturnam. *Liv.*
† Viri & liberi vocem auditam. *Ibid.*
‖ Eos demum, qui nihil præterquam de libertate cogitant, dignos eſſe, qui Romani fiant. *Ibid.*

internal

CHAP. III. internal thoughts of a man, and cannot but have a right to preſerve their Liberty, or avenge the violation.

If matters are well examin'd, perhaps not many Magiſtrats can pretend to much upon the title of merit, moſt eſpecially if they or their progenitors have continu'd long in Office. The conveniences annex'd to the exerciſe of the Sovereign power, may be thought ſufficient to pay ſuch ſcores as they grow due, even to the beſt: and as things of that nature are handled, I think it will hardly be found, that all Princes can pretend to an irreſiſtible power upon the account of beneficence to their People. When the family of *Medices* came to be maſters of *Tuſcany*, that Country was without diſpute, in men, mony and arms, one of the moſt flouriſhing Provinces in the World, as appears by *Macchiavel*'s account, and the relation of what happen'd between *Charles* the eighth and the Magiſtrats of *Florence*, which I have mention'd already from *Guicciardin*. Now whoever ſhall conſider the ſtrength of that Country in thoſe days, together with what it might have bin in the ſpace of a hundred and forty years, in which they have had no war, nor any other plague, than the extortion, fraud, rapin and cruelty of their Princes, and compare it with their preſent deſolate, wretched and contemptible condition, may, if he pleaſe, think that much veneration is due to the Princes that govern them, but will never make any man believe that their Title can be grounded upon beneficenee. The like may be ſaid of the Duke of *Savoy*, who pretending (upon I know not what account) that every Peaſant in the Dutchy ought to pay him two Crowns every half year, did in 1662 ſubtilly find out, that in every year there were thirteen halves; ſo that a poor man who had nothing but what he gain'd by hard labor, was thro his fatherly Care and Beneficence, forc'd to pay ſix and twenty Crowns to his Royal Highneſs, to be employ'd in his diſcreet and vertuous pleaſures at *Turin*.

The condition of the ſeventeen Provinces of the *Netherlands* (and even of *Spain* it ſelf) when they fell to the houſe of *Auſtria*, was of the ſame nature: and I will confeſs as much as can be requir'd, if any other marks of their Government do remain, than ſuch as are manifeſt evidences of their Pride, Avarice, Luxury and Cruelty.

France in outward appearance makes a better ſhow; but nothing in this world is more miſerable, than that people under the fatherly care of their triumphant Monarch. The beſt of their condition is, like Aſſes and Maſtiff-dogs, to work and fight, to be oppreſt and kill'd for him; and thoſe among them who have any underſtanding well know, that their induſtry, courage, and good ſucceſs, is not only unprofitable, but deſtructive to them; and that by increaſing the power of their Maſter, they add weight to their own Chains. And if any Prince, or ſucceſſion of Princes, have made a more modeſt uſe of their Power, or more faithfully diſcharg'd the truſt repos'd in them, it muſt be imputed peculiarly to them, as a teſtimony of their perſonal Vertue, and can have no effect upon others.

The Rights therefore of Kings are not grounded upon Conqueſt; the Libertys of Nations do not ariſe from the Grants of their Princes; the Oath of Allegiance binds no private man to more than the Law directs, and has no influence upon the whole Body of every Nation: Many Princes are known to their Subjects only by the injurys, loſſes and miſchiefs brought upon them; ſuch as are good and juſt, ought to be rewarded for their perſonal Vertue, but can confer no right upon thoſe who no way

 reſemble

reſemble them; and whoever pretends to that merit, muſt prove it by his Actions: Rebellion being nothing but a renew'd War, can never be againſt a Government that was not eſtabliſh'd by War, and of it ſelf is neither good nor evil, more than any other War; but is juſt or unjuſt according to the cauſe or manner of it. Beſides, that Rebellion which by *Samuel* is compar'd to Witchcraft, is not of private men, or a People againſt the Prince, but of the Prince againſt God: The *Iſraelites* are often ſaid to have rebel'd againſt the Law, Word, or Command of God; but tho they frequently oppos'd their Kings, I do not find Rebellion imputed to them on that account, nor any ill character put upon ſuch actions. We are told alſo of ſome Kings who had bin ſubdu'd, and afterwards rebel'd againſt *Chedorlaomer* and other Kings; but their cauſe is not blam'd, and we have ſome reaſon to believe it good, becauſe *Abraham* took part with thoſe who had rebel'd. However it can be of no prejudice to the cauſe I defend: for tho it were true, that thoſe ſubdu'd Kings could not juſtly riſe againſt the perſon who had ſubdu'd them; or that generally no King being once vanquiſh'd, could have a right of Rebellion againſt his Conqueror, it could have no relation to the actions of a People vindicating their own Laws and Libertys againſt a Prince who violates them; for that War which never was, can never be renew'd. And if it be true in any caſe, that hands and ſwords are given to men, that they only may be ſlaves who have no courage, it muſt be when Liberty is overthrown by thoſe, who of all men ought with the utmoſt induſtry and vigor to have defended it. SECT. 36. 1 Sam. 15. 23.

That this ſhould be known, is not only neceſſary for the ſafety of Nations, but advantageous to ſuch Kings as are wiſe and good. They who know the frailty of human Nature, will always diſtruſt their own; and deſiring only to do what they ought, will be glad to be reſtrain'd from that which they ought not to do. Being taught by reaſon and experience, that Nations delight in the Peace and Juſtice of a good Government, they will never fear a general Inſurrection, whilſt they take care it be rightly adminiſter'd; and finding themſelves by this means to be ſafe, will never be unwilling, that their Children or Succeſſors ſhould be oblig'd to tread in the ſame ſteps.

If it be ſaid that this may ſometimes cauſe diſorders, I acknowledg it; but no human condition being perfect, ſuch a one is to be choſen, which carrys with it the moſt tolerable inconveniences: And it being much better than the irregularitys and exceſſes of a Prince ſhould be reſtrain'd or ſuppreſt, than that whole Nations ſhould periſh by them, thoſe Conſtitutions that make the beſt proviſion againſt the greateſt evils, are moſt to be commended. If Governments were inſtituted to gratify the luſts of one man, thoſe could not be good that ſet limits to them; but all reaſonable men confeſſing that they are inſtituted for the good of Nations, they only can deſerve praiſe, who above all things endeavour to procure it, and appoint means proportion'd to that end. The great variety of Governments which we ſee in the World, is nothing but the effect of this care; and all Nations have bin, and are more or leſs happy, as they or their Anceſtors have had vigor of Spirit, integrity of Manners, and wiſdom to invent and eſtabliſh ſuch Orders, as have better or worſe provided for this common Good, which was ſought by all. But as no Rule can be ſo exact, to make proviſion againſt all conteſtations; and all diſputes about Right do naturally end in force when Juſtice is deny'd (ill men never willingly ſubmitting to any deciſion that is contrary to their paſſions and intereſts) the beſt Conſtitutions are of no value, if there be not a Power to

ſupport

CHAP. III.

ſupport them. This Power firſt exerts it ſelf in the execution of Juſtice by the ordinary Officers; but no Nation having bin ſo happy, as not ſometimes to produce ſuch Princes as *Edward* and *Richard* the Seconds, and ſuch Miniſters as *Gaveſton*, *Spencer*, and *Treſilian*, the ordinary Officers of Juſtice often want the will, and always the power to reſtrain them. So that the Rights and Libertys of a Nation muſt be utterly ſubverted and aboliſh'd, if the power of the whole may not be employ'd to aſſert them, or puniſh the violation of them. But as it is the fundamental Right of every Nation to be govern'd by ſuch Laws, in ſuch Manner, and by ſuch Perſons as they think moſt conducing to their own good, they cannot be accountable to any but themſelves for what they do in that moſt important affair.

SECT. XXXVII.

The Engliſh *Government was not ill conſtituted, the defects more lately obſerv'd proceeding from the change of manners, and corruption of the times.*

I Am not ignorant that many honeſt and good men acknowledging theſe Rights, and the care of our Anceſtors to preſerve them, think they wanted wiſdom rightly to proportionate the means to the end. 'Tis not enough, ſay they, for the General of an Army to deſire Victory; he only can deſerve praiſe, who has skill, induſtry, and courage to take the beſt meaſures of obtaining it. Neither is it enough for wiſe Legiſlators to preſerve Liberty, and to erect ſuch a Government as may ſtand for a time; but to ſet ſuch clear Rules to thoſe who are to put it in execution, that every man may know when they tranſgreſs; and appoint ſuch means for reſtraining or puniſhing them, as may be us'd ſpeedily, ſurely, and effectually, without danger to the Publick. *Sparta* being thus conſtituted, we hardly find that, for more than eight hundred years, any King preſum'd to paſs the limits preſcrib'd by the Law. If any *Roman* Conſul grew inſolent, he might be reduc'd to order without blood, or danger to the Publick; and no Dictator ever uſurp'd a power over Liberty till the time of *Sylla*, when all things in the City were ſo chang'd, that the antient foundations were become too narrow. In *Venice* the power of the Duke is ſo circumſcrib'd, that in 1300 years, no one except *Falerio* and *Tiepoli*, has dar'd to attempt any thing againſt the Laws: and they were immediately ſuppreſt with little commotion in the City. On the other ſide, our Law is ſo ambiguous, perplext and intricate, that 'tis hard to know when 'tis broken. In all the publick conteſts we have had, men of good judgment and integrity have follow'd both partys. The means of tranſgreſſing and procuring Partizans to make good by force the moſt notorious violations of Liberty, have bin ſo eaſy, that no Prince who has endeavour'd it, ever fail'd to get great numbers of followers, and to do infinite miſchiefs before he could be remov'd. The Nation has bin brought to fight againſt thoſe they had made to be what they were, upon the unequal terms of hazarding all againſt nothing. If they had ſucceſs, they gain'd no more than what was their own before, and which the Law ought to have ſecur'd: whereas 'tis evident, that if at any one time the contrary had

had happen'd, the Nation had bin utterly enſlav'd; and no victory was ever gain'd without the loſs of much noble and innocent blood. SECT. 37.

To this I anſwer, that no right judgment can be given of human things, without a particular regard to the time in which they paſs'd. We eſteem *Scipio*, *Hannibal*, *Pyrrhus*, *Alexander*, *Epimanondas* and *Ceſar*, to have bin admirable Commanders in War, becauſe they had in a moſt eminent degree all the qualitys that could make them ſo, and knew beſt how to employ the Arms then in uſe according to the diſciplin of their times; and yet no man doubts, that if the moſt skilful of them could be rais'd from the Grave, reſtor'd to the utmoſt vigor of mind and body, ſet at the head of the beſt Armys he ever commanded, and plac'd upon the Frontiers of *France* or *Flanders*, he would not know how to advance or retreat, nor by what means to take any of the places in thoſe parts, as they are now fortify'd and defended; but would moſt certainly be beaten by any inſignificant fellow with a ſmall number of men, furniſh'd with ſuch Arms as are now in uſe, and following the methods now practis'd. Nay, the manner of marching, encamping, beſieging, attacking, defending and fighting, is ſo much alter'd within the laſt threeſcore years, that no man obſerving the diſciplin that was then thought to be the beſt, could poſſibly defend himſelf againſt that which has bin ſince found out, tho the terms are ſtill the ſame. And if it be conſider'd that political matters are ſubject to the ſame mutations (as certainly they are) it will be ſufficient to excuſe our Anceſtors, who ſuting their Government to the Ages in which they liv'd, could neither foreſee the changes that might happen in future Generations, nor appoint remedys for the miſchiefs they did not foreſee.

They knew that the Kings of ſeveral Nations had bin kept within the limits of the Law, by the vertue and power of a great and brave Nobility; and that no other way of ſupporting a mix'd Monarchy had ever bin known in the World, than by putting the balance into the hands of thoſe who had the greateſt intereſts in Nations, and who by Birth and Eſtate enjoy'd greater advantages than Kings could confer upon them for rewards of betraying their Country. They knew that when the Nobility was ſo great as not eaſily to be number'd, the little that was left to the King's diſpoſal, was not ſufficient to corrupt many; and if ſome might fall under the temptation, thoſe who continu'd in their integrity, would eaſily be able to chaſtiſe them for deſerting the publick Cauſe, and by that means deter Kings from endeavouring to ſeduce them from their duty. Whilſt things continu'd in this poſture, Kings might ſafely be truſted (with the advice of their Council) to confer the commands of the Militia in Towns and Provinces upon the moſt eminent men in them: And whilſt thoſe Kings were exercis'd in almoſt perpetual Wars, and plac'd their glory in the greatneſs of the Actions they atchiev'd by the power and valor of their People, it was their intereſt always to chuſe ſuch as ſeem'd beſt to deſerve that honor. It was not to be imagin'd that thro the weakneſs of ſome, and the malice of others, thoſe Dignitys ſhould by degrees be turn'd into empty Titles, and become the rewards of the greateſt crimes, and the vileſt ſervices; or that the nobleſt of their Deſcendents for want of them, ſhould be brought under the name of Commoners, and depriv'd of all privileges except ſuch as were common to them with their Grooms. Such a ſtupendous change being in proceſs of time inſenſibly introduc'd, the foundations of that Government which they had eſtabliſh'd, were remov'd, and the ſuperſtructure overthrown. The balance by which

CHAP. III. it ſubſiſted was broken; and 'tis as impoſſible to reſtore it, as for moſt of thoſe who at this day go under the name of Noblemen, to perform the dutys requir'd from the antient Nobility of *England*. And tho there were a charm in the name, and thoſe who have it ſhould be immediately fill'd with a ſpirit like to that which animated our Anceſtors, and endeavor to deſerve the Honors they poſſeſs, by ſuch Services to the Country as they ought to have perform'd before they had them, they would not be able to accompliſh it. They have neither the Intereſt nor the Eſtates requir'd for ſo great a work. Thoſe who have Eſtates at a rack Rent, have no dependents. Their Tenants, when they have paid what is agreed, owe them nothing; and knowing they ſhall be turn'd out of their Tenements, as ſoon as any other will give a little more, they look upon their Lords as men who receive more from them than they confer upon them. This dependence being loſt, the Lords have only more mony to ſpend or lay up than others, but no command of men; and can therefore neither protect the weak, nor curb the inſolent. By this means all things have bin brought into the hands of the King and the Commoners, and there is nothing left to cement them, and to maintain the union. The perpetual jarrings we hear every day; the diviſion of the Nation into ſuch factions as threaten us with ruin, and all the diſorders that we ſee or fear, are the effects of this rupture. Theſe things are not to be imputed to our original Conſtitutions, but to thoſe who have ſubverted them: And if they who by corrupting, changing, enervating and annihilating the Nobility, which was the principal ſupport of the antient regular Monarchy, have driven thoſe who are truly Noblemen into the ſame intereſt and name with the Commons, and by that means increas'd a party which never was, and I think never can be united to the Court, they are to anſwer for the Conſequences; and if they periſh, their deſtruction is from themſelves.

The inconveniences therefore proceed not from the Inſtitution, but from the Innovation. The Law was plain, but it has bin induſtriouſly render'd perplex: They who were to have upheld it are overthrown. That which might have bin eaſily perform'd when the People was arm'd, and had a great, ſtrong, vertuous and powerful Nobility to lead them, is made difficult, now they are diſarm'd, and that Nobility aboliſh'd. Our Anceſtors may evidently appear, not only to have intended well, but to have taken a right courſe to accompliſh what they intended. This had effect as long as the cauſe continu'd; and the only fault that can be aſcrib'd to that which they eſtabliſh'd is, that it has not prov'd to be perpetual; which is no more than may be juſtly ſaid of the beſt human Conſtitutions that ever have bin in the world. If we will be juſt to our Anceſtors, it will become us in our time rather to purſue what we know they intended, and by new Conſtitutions to repair the breaches made upon the old, than to accuſe them of the defects that will for ever attend the Actions of men. Taking our Affairs at the worſt, we ſhall ſoon find, that if we have the ſame ſpirit they had, we may eaſily reſtore our Nation to its antient Liberty, Dignity and Happineſs; and if we do not, the fault is owing to our ſelves, and not to any want of vertue and wiſdom in them.

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SECT. XXXVIII.

The power of calling and diſſolving Parliaments is not ſimply in the King. The variety of Cuſtoms in chuſing Parliament men, and the Errors a People may commit, neither prove that Kings are or ought to be Abſolute.

THE original of Magiſtratical Power, the intention of our Anceſtors in its creation, and the ways preſcrib'd for the direction and limitation of it may, I preſume, ſufficiently appear by what has bin ſaid. But becauſe our Author, taking hold of every twig, pretends, *That Kings may call and diſſolve Parliaments at their pleaſure*, and from thence infers *the Power to be wholly in them*; alledges *the various Cuſtoms in ſeveral parts of this Nation us'd in the Elections of Parliament men, to procced from the King's will*; and *becauſe a People may commit Errors*, thinks *all Power ought to be put into the hands of the King:*

I anſwer, 1. That the Power of calling and diſſolving Parliaments is not ſimply in Kings. They may call Parliaments, if there be occaſion, at times when the Law dos not exact it; they are plac'd as Sentinels, and ought diligently to obſerve the motions of the Enemy, and give notice of his approach: But if the Sentinel falls aſleep, neglects his duty, or malicioufly endeavors to betray the City, thoſe who are concern'd may make uſe of all other means to know their danger, and to preſerve themſelves. The ignorance, incapacity, negligence or luxury of a King, is a great calamity to a Nation, and his malice is worſe, but not an irreparable ruin. Remedys may be, and often have bin found againſt the worſt of their Vices. The laſt *French* Kings of the Races of *Meroveus* and *Pepin* brought many miſchiefs upon the Kingdom, but the deſtruction was prevented. *Edward* and *Richard* the Seconds of *England* were not unlike them, and we know by what means the Nation was preſerv'd. The queſtion was not who had the Right, or who ought to call Parliaments, but how the Commonwealth might be ſav'd from ruin. The Conſuls, or other chief Magiſtrats in *Rome*, had certainly a right of aſſembling and diſmiſſing the Senat: But when *Hannibal* was at the Gates, or any other imminent danger threaten'd them with deſtruction; if that Magiſtrate had bin drunk, mad, or gain'd by the Enemy, no wiſe man can think that formalitys were to have bin obſerv'd. In ſuch caſes every Man is a Magiſtrate; and he who beſt knows the danger, and the means of preventing it, has a right of calling the Senat or People to an Aſſembly. The People would, and certainly ought to follow him, as they did *Brutus* and *Valerius* againſt *Tarquin*, or *Horatius* and *Valerius* againſt the *Decemviri*; and whoever ſhould do otherwiſe, might for ſottiſhneſs be compar'd to the Courtiers of the two laſt Kings of *Spain*. The firſt of theſe, by name *Philip* the Third, being indiſpos'd in cold weather, a *Braziero* of Coals was brought into his Chamber, and plac'd ſo near to him, that he was cruelly ſcorch'd. A Nobleman then preſent ſaid to one who ſtood by him, *The King burns*; the other anſwer'd, it was true, but the Page whoſe Office it was to bring and re-

CHAP. III.

move the *Braziero*, was not there; and before he could be found, his Majeſty's Legs and Face were ſo burnt, that it caus'd an *Eryſipelas*, of which he dy'd. *Philip* the Fourth eſcap'd not much better, who being ſurpriz'd as he was hunting by a violent ſtorm of Rain and Hail, and no man preſuming to lend the King a Cloke, he was ſo wet before the Officer could be found who carry'd his own, that he took a cold, which caſt him into a dangerous Fever. If Kings like the conſequences of ſuch a Regularity, they may cauſe it to be obſerv'd in their own Familys; but Nations looking in the firſt place to their own ſafety, would be guilty of the moſt extreme ſtupidity, if they ſhould ſuffer themſelves to be ruin'd for adhering to ſuch Ceremonys.

This is ſaid upon a ſuppoſition, that the whole power of calling and diſſolving Parliaments is by the Law plac'd in the King: but I utterly deny that it is ſo; and to prove it, ſhall give the following Reaſons.

(1.) That the King can have no ſuch Power, unleſs it be given to him, for every man is originally free; and the ſame power that makes him King, gives him all that belongs to his being King. 'Tis not therefore an inherent, but a delegated Power; and whoever receives it, is accountable to thoſe that gave it; for, as our Author is forc'd to confeſs, *they who give Authority by Commiſſion, do always retain more than they grant.*

(2.) The Law for annual Parliaments expreſly declares it not to be in the King's power, as to the point of their meeting, nor conſequently their continuance. For they meet to no purpoſe if they may not continue to do the work for which they meet: and it were abſurd to give them a power of meeting, if they might not continue till it be done: For, as *Grotius* ſays, *Qui dat finem, dat media ad finem neceſſaria.* The only reaſon why Parliaments do meet, is to provide for the publick good; and they by Law ought to meet for that end. They ought not therefore to be diſſolv'd, till it be accompliſh'd. For this reaſon the opinion given by *Treſilian*, that Kings might diſſolve Parliaments at their pleaſure, was adjudg'd to be a principal part of his Treaſon.

(3.) We have already prov'd, that *Saxons*, *Danes*, *Normans*, &c. who had no Title to the Crown, were made Kings by Micklegemots, Wittenagemots, and Parliaments; that is, either by the whole People, or their Repreſentatives: Others have bin by the ſame Authority reſtrain'd, brought to order, or depos'd. But as it is impoſſible that ſuch as were not Kings, and had no title to be Kings, could by virtue of a kingly Power call Parliaments, when they had none; and abſurd to think that ſuch as were in the Throne, who had not govern'd according to Law, would ſuffer themſelves to be reſtrain'd, impriſon'd, or depos'd by Parliaments, call'd and ſitting by themſelves, and ſtill depending upon their will to be or not to be: 'Tis certain that Parliaments have in themſelves a Power of ſitting and acting for the publick Good.

2. To the ſecond. The various cuſtoms us'd in Elections are nothing to this queſtion. In the Countys, which make up the Body of the Nation, all Freeholders have their Votes: theſe are properly *Cives*, Members of the Commonwealth, in diſtinction from thoſe who are only *Incolæ*, or Inhabitants, Villains, and ſuch as being under their Parents, are not yet *ſui juris*. Theſe in the beginning of the *Saxons* reign in *England*, compos'd the Micklegemots; and when they grew to be ſo numerous that one place could not contain them, or ſo far diſpers'd, that without trouble and danger they could not leave their habitations, they deputed ſuch as ſhould repreſent them. When the Nation came to

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be more poliſh'd, to inhabit Citys and Towns, and to ſet up ſeveral Arts and Trades; thoſe who exercis'd them were thought to be as uſeful to the Commonwealth, as the Freeholders in the Country, and to deſerve the ſame Privileges. But it not being reaſonable that every one ſhould in this caſe do what he pleas'd, it was thought fit that the King with his Council (which always conſiſted of the *Proceres* and *Magnates Regni*) ſhould judg what numbers of men, and what places deſerv'd to be made Corporations or Bodys Politick, and to enjoy thoſe Privileges; by which he did not confer upon them any thing that was his, but according to the truſt repos'd in him, did diſpenſe out of the publick Stock parcels of what he had receiv'd from the whole Nation: And whether this was to be enjoy'd by all the Inhabitants, as in *Weſtminſter*; by the Common Hall, as in *London*; or by the Mayor, Aldermen, Jurats and Corporation, as in other places, 'tis the ſame thing: for in all theſe caſes the King dos only diſtribute, not give, and under the ſame condition that he might call Parliaments, that is, for the publick good. This indeed increaſes the Honor of the perſon intruſted, and adds weight to the obligation incumbent upon him; but can never change the nature of the thing, ſo as to make that an inherent, which is only a delegated Power. And as Parliaments, when occaſion requir'd, have bin aſſembled, have refus'd to be diſſolv'd till their work was finiſh'd, have ſeverely puniſh'd thoſe who went about to perſuade Kings, that ſuch matters depended abſolutely upon their will, and made Laws to the contrary: 'tis not to be imagin'd, that they would not alſo have interpos'd their Authority in matters of Charters, if it had bin obſerv'd that any King had notoriouſly abus'd the truſt repos'd in him, and turn'd the Power to his private advantage, with which he was intruſted for the publick good. SECT. 38.

That which renders this moſt plain and ſafe, is, that men choſen in this manner to ſerve in Parliament, do not act by themſelves, but in conjunction with others who are ſent thither by preſcription; nor by a Power deriv'd from Kings, but from thoſe that chuſe them. If it be true therefore that thoſe who delegate Powers, do always retain to themſelves more than they give, they who ſend theſe men, do not give them an abſolute power of doing whatſoever they pleaſe, but retain to themſelves more than they confer upon their Deputys: They muſt therefore be accountable to their Principals, contrary to what our Author aſſerts. This continues in force, tho he knows not, that *any Knights and Burgeſſes have ever bin queſtion'd by thoſe that ſent them*; for it cannot be concluded they ought not, or may not be queſtion'd, becauſe none have bin queſtion'd. But in truth they are frequently queſtion'd: The People do perpetually judg of the behaviour of their Deputys. Whenſoever any of them has the misfortune not to ſatisfy the major part of thoſe that choſe him, he is ſure to be rejected with diſgrace the next time he ſhall deſire to be choſen. This is not only a ſufficient puniſhment for ſuch faults, as he who is but one of five hundred may probably commit, but as much as the greateſt and freeſt People of the World did ever inflict upon their Commanders that brought the greateſt loſſes upon them. *Appius Claudius*, *Pomponius*, and *Terentius Varro*, ſurviv'd the greateſt defeats that ever the *Romans* ſuffer'd; and tho they had caus'd them by their folly and perverſneſs, were never puniſh'd. Yet I think no man doubts that the *Romans* had as much right over their own Officers, as the *Athenians* and *Carthaginians*, who frequently put them to death. They thought the mind of a Commander would be too much diſtracted, if at the ſame time he ſhould

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CHAP. III.

ſtand in fear both of the Enemy and his own Countrymen: And as they always endeavour'd to chuſe the beſt men, they would lay no other neceſſity upon them of performing their duty, than what was ſuggeſted by their own vertue and love to their Country. 'Tis not therefore to be thought ſtrange, if the people of *England* have follow'd the moſt generous and moſt proſperous Examples. Beſides, if any thing has bin defective in their uſual proceedings with their Delegats, the inconvenience has bin repair'd by the modeſty of the beſt and wiſeſt of them that were choſen. Many in all Ages, and ſometimes the whole body of the Commons have refus'd to give their opinion in ſome caſes, till they had conſulted with thoſe that ſent them: The Houſes have bin often adjourn'd to give them time to do it; and if this were done more frequently, or that the Towns, Citys and Countys, had on ſome occaſions given inſtructions to their Deputys, matters would probably have gone better in Parliament than they have often done.

3. The queſtion is not, whether the Parliament be impeccable or infallible, but whether an Aſſembly of Nobility, with a Houſe of Commons compos'd of thoſe who are beſt eſteem'd by their Neighbors in all the Towns and Countys of *England*, are more or leſs ſubject to error or corruption, than ſuch a man, woman or child as happens to be next in blood to the laſt King. Many men do uſually ſee more than one; and if we may believe the wiſeſt King, *In the multitude of Counſellors there is ſafety.* Such as are of mature Age, good Experience, and approv'd reputation for Vertue and Wiſdom, will probably judg better than children or fools. Men are thought to be more fit for War than women; and thoſe who are bred up in Diſciplin, to underſtand it better than thoſe who never knew any thing of it. If ſome Countys or Citys fail to chuſe ſuch men as are eminently capable, all will hardly be ſo miſtaken as to chuſe thoſe who have no more of Wiſdom or Vertue, than is uſually intail'd upon Familys. But *Filmer* at a venture admires the profound Wiſdom of the King; tho beſides ſuch as we have known, Hiſtorys give us too many proofs, that all thoſe who have bin poſſeſt of Crowns, have not excel'd that way. He ſpeaks of Kings in general, and makes no difference between *Solomon* and his fooliſh Son. He diſtinguiſhes not our *Edward* the firſt from *Edward* the ſecond; *Edward* the third from *Richard* the ſecond; or *Henry* the fifth from *Henry* the ſixth. And becauſe all of them were Kings, all of them, if he deſerves credit, muſt needs have bin endow'd with profound Wiſdom. *David* was wiſe as an Angel of God; therefore the preſent Kings of *France*, *Spain* and *Sweden*, muſt have bin ſo alſo, when they were but five years old: *Joan* of *Caſtille* could not be mad, nor the two *Joans* of *Naples* infamous Strumpets, or all his Arguments fall to the ground. For tho *Solomon*'s Wiſdom ſurpaſt that of all the people, yet men could not rely equally upon that of *Rehoboam*, unleſs it had bin equal. And if they are all equal in Wiſdom when they come to be equally Kings, *Perſes* of *Macedon* was as great a Captain as *Philip* or *Alexander*; *Commodus* and *Heliogabalus* were as wiſe and vertuous as *Marcus Aurelius* and *Antoninus Pius*: Nay, *Chriſtina* of *Sweden* in her infancy was as fit to command an Army as her valiant Father. If this be moſt abſurd and falſe, there can be neither reaſon nor ſenſe in propoſing, as our Author dos, that the Power ſhould be in the King, becauſe the Parliament is not infallible. *It is*, ſays he, *for the Head to correct, and not to expect the conſent of the Members or Partys peccant to be Judges in their own caſes; nor is it needful to confine the King*, &c.

Prov. 11. 14.

Beſides

Beſides that this is directly contrary to his own fundamental Maxim, that no man muſt be the Judg of his own caſe, in as much as this would put the Power into the King's hands, to decide the Controverſys between himſelf and the people, in which his own Paſſions, private Intereſt, and the corrupt Counſels of ill Miniſters, will always lead him out of the way of Juſtice, the inconveniences that may ariſe from a poſſibility that the Parliament or People is not infallible, will be turn'd to the moſt certain and deſtructive miſchiefs; as muſt have fallen out in *Spain*, if, upon a ſuppoſition that the Eſtates of *Caſtille* might err, the correction of ſuch Errors had bin left to the profound Wiſdom and exquiſit Judgment of *Joan* their Queen and Head, who was ſtark mad. And the like may be ſaid of many other Princes, who thro natural or accidental infirmitys, want of age, or dotage, have bin utterly unable to judg of any thing. SECT. 28.

The matter will not be much mended, tho I paſs from Ideots and Lunaticks, to ſuch as know well enough how to clothe and feed themſelves, and to perform the ordinary functions of life; and yet have bin as uncapable of giving a right judgment concerning the weighty matters of Government, as the weakeſt of Children, or the moſt furious of Madmen. Good manners forbid me to enumerate the examples of this kind, which *Europe* has produc'd even in this Age: But I ſhould commit a greater fault, if I did in ſilence paſs over the extravagances of thoſe, who being moſt weak in judgment, and irregular in their appetites, have bin moſt impatient of any reſtraint upon their will. The brave *Guſtavus Adolphus*, and his Nephew *Carolus Guſtavus*, who was not inferior to him in Valor, Wiſdom, and love to his people, were content with the Power that the Laws of their Country gave to them: But *Frederick* the fourth of *Denmark* never reſted till he had overthrown the Liberty of that Nation. *Caſimir* by attempting the like in *Poland*, loſt almoſt half that Kingdom; and flying from the other, left all to be ravag'd by *Swedes*, *Tartars*, and *Coſacks*. The preſent Emperor, who paſs'd his time in ſetting Songs in Muſick with a wretched Italian Eunuch, when he ought to have bin at the Head of a brave Army, rais'd to oppoſe the Turks in the year 1664, and which under good conduct might have overthrown the Ottoman Empire, as ſoon as he was deliver'd from the fear of that Enemy, fell upon his own Subjects with ſuch cruelty, that they are now forc'd to fly to the Turks for protection; the Proteſtants eſpecially, who find their condition more tolerable under thoſe profeſt Enemys to Chriſtianity, than to be expos'd to the pride, avarice, perfidiouſneſs and violence of the Jeſuits by whom he is govern'd. And the qualitys of the King of *Portugal* are ſo well known, together with the condition to which he would have brought his Kingdom if he had not bin ſent to the *Tercera*'s, that I need not ſpeak particularly of him.

If Kings therefore, by virtue of their Office, are conſtituted Judges over the body of their People, becauſe the People, or Parliaments repreſenting them, are not infallible; thoſe Kings who are children, fools, diſabled by age, or madmen, are ſo alſo; women have the ſame right where they are admitted to the ſucceſſion; thoſe men who, tho of ripe age and not ſuperannuated, nor directly fools or madmen, yet abſolutely uncapable of judging important Affairs, or by their paſſions, intereſts, vices, or the malice and wickedneſs of their Miniſters, Servants and Favorites, are ſet to oppreſs and ruin the people, enjoy the ſame privilege: than which nothing can be imagin'd more abſurd and abominable, nor more directly tending to the corruption and deſtruction of the Nations under

under them, for whoſe good and ſafety our Author confeſſes they have their power.

SECT. XXXIX.

Thoſe Kings only are heads of the People, who are good, wiſe, and ſeek to advance no Intereſt but that of the Publick.

THE worſt of men ſeldom arrive to ſuch a degree of impudence, as plainly to propoſe the moſt miſchievous follys and enormitys. They who are enemys to Vertue, and fear not God, are afraid of men, and dare not offer ſuch things as the world will not bear, leſt by that means they ſhould overthrow their own deſigns. All poiſon muſt be diſguis'd, and no man can be perſuaded to eat Arſenic, unleſs it be cover'd with ſomething that appears to be harmleſs. *Creuſa* would have abhor'd *Medea*'s preſent, if the peſtilent venom had not bin hidden by the exterior luſtre of Gold and Gems. The Garment that deſtroy'd *Hercules* appear'd beautiful; and *Eve* had neither eaten of the forbidden Tree, nor given the Fruit to her Husband, if it had not ſeem'd to be good and pleaſant, and ſhe had not bin induc'd to believe that by eating it they ſhould both be as Gods. The Servants of the Devil have always follow'd the ſame method: their malice is carry'd on by fraud, and they have ſeldom deſtroy'd any, but ſuch as they had firſt deceiv'd. Truth can never conduce to miſchief, and is beſt diſcover'd by plain words; but nothing is more uſual with ill men than to cover their miſchievous deſigns with figurative phraſes. It would be too ridiculous to ſay in plain terms, that all Kings without diſtinction are better able to judg of all matters than any or all their people; they muſt therefore be call'd *the Head*, that thereby they may be inveſted with all the preeminences which in a natural body belong to that part; and men muſt be made to believe the analogy between the natural and political body to be perfect. But the matter muſt be better examin'd before this mortal poiſon ſeems fit to be ſwallow'd.

The word *Head* is figuratively us'd both in Scripture and profane Authors in ſeveral ſenſes, in relation to places or perſons, and always implys ſomething of real or ſeeming preeminence in point of honor or juriſdiction. Thus *Damaſcus* is ſaid to be the head of *Syria*; *Samaria* of *Ephraim*, and *Ephraim* of the ten Tribes: that is, *Ephraim* was the chief Tribe; *Samaria* was the chief City of *Ephraim*, and *Damaſcus* of *Syria*: tho it be certain that *Ephraim* had no juriſdiction over the other Tribes, nor *Samaria* over the other Citys of *Ephraim*, but every one according to the Law had an equal power within it ſelf, or the Territorys belonging to it; and no privileges were granted to one above another, except to *Jeruſalem*, in the matter of Religion, becauſe the Temple was plac'd there.

1 Chron. 5.

The words Head, Prince, principal Man, or Captain, ſeem alſo to be equivocal; and in this ſenſe the ſame men are call'd Heads of the Tribes, Princes in the houſes of their Fathers: and 'tis ſaid, that two hundred Heads of the Tribe of *Reuben* were carry'd away captive by *Tiglath Pilezer*, and proportionably in the other Tribes; which were a ſtrange thing, if the word did imply that ſupreme, abſolute and infinite Power that our Author attributes to it: and no man of leſs underſtanding

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than he, can comprehend how there ſhould be two hundred or more ſovereign unlimited Powers in one Tribe, moſt eſpecially when 'tis certain that one ſeries of Kings had for many Ages reign'd over that Tribe and nine more; and that every one of thoſe Tribes, as well as the particular Citys, even from their firſt entrance into the promis'd Land, had a full juriſdiction within it ſelf. When the *Gileadites* came to *Jephtha*, he ſuſpected them, and ask'd whether indeed they intended to make him their Head? they anſwer'd, if he would lead them againſt the *Ammonites*, he ſhould be their Head. In the like ſenſe when *Jul. Cæſar* in deſpair would have kill'd himſelf, one of his Soldiers diſſuaded him from that deſign, by telling him, * *That the ſafety of ſo many Nations that had made him their Head, depending upon his life, it would be cruelty in him to take ſuch a reſolution.* But for all that, when this Head was taken off, the Body did ſtill ſubſiſt: upon which I obſerve many fundamental differences between the relation of this figurative Head (even when the word is rightly apply'd) and that of the natural Head to their reſpective Bodys. SECT. 39. Judg. 12.

The figurative Heads may be many, the natural but one.

The People make or create the figurative Head; the natural is from it ſelf, or connate with the Body.

The natural Body cannot change or ſubſiſt without the natural Head; but a People may change and ſubſiſt very well without the artificial. Nay, if it had bin true, that the World had choſen *Ceſar*, as it was not, (for he was choſen only by a factious mercenory Army, and the ſoundeſt part ſo far oppos'd that Election, that they brought him to think of killing himſelf) there could have bin no truth in this flattering aſſertion, *That the ſafety of the whole depended upon his Life:* for the World could not only ſubſiſt without him, but without any ſuch Head, as it had done before he by the help of his corrupted Soldiery had uſurp'd the Power; which alſo ſhews that a civil Head may be a matter of convenience, but not of neceſſity. Many Nations have had none; and if the expreſſion be ſo far ſtretch'd, as to make it extend to the annual or temporary Magiſtrats ſet up by the *Athenians*, *Carthaginians*, *Romans*, and other antient Commonwealths, or to thoſe at this day in *Venice*, *Holland*, *Switzerland*, and other places, it muſt be confeſt that the People who made, depos'd, abrogated, or aboliſh'd both the Magiſtrats and Magiſtracys, had the power of framing, directing and removing their Heads, which our Author will ſay is moſt abſurd. Yet they did it without any prejudice to themſelves, and very often much to their advantage.

In mentioning theſe vaſt and eſſential differences between the natural and political Head, I no way intend to exclude others that may be of equal weight; but as all figurative expreſſions have their ſtrength only from ſimilitude, there can be little or none in this, which differs in ſo many important points, and can therefore be of no effect.

However, Right proceeds from identity, and not from ſimilitude. The right of a man over me is by being my Father, and not by being like my Father. If I had a Brother ſo perfectly reſembling me as to deceive our Parents, which has ſometimes happen'd to Twins, it could give him no right to any thing that is mine. If the power therefore of correcting the partys peccant, which our Author attributes to Kings, be grounded

* Cum tot ab hac anima populorum vita ſaluſq;
Pendeat, & tantus caput hoc ſibi fecerit orbis,
Sævitia eſt voluiſſe mori. *Lucan.*

CHAP. III. upon the name of Head, and a reſemblance between the Heads of the Body politick and Body natural; if this reſemblance be found to be exceedingly imperfect, uncertain, or perhaps no way relating to the matter in queſtion; or tho it did, and were abſolutely perfect, could confer no right; the allegation of it is impertinent and abſurd.

This being clear'd, 'tis time to examin what the Office of the Head is in a natural Body, that we may learn from thence why that name is ſometimes given to thoſe who are eminent in political Bodys, and to whom it dos belong.

Some men account the Head to be ſo abſolutely the ſeat of all the Senſes, as to derive even that of feeling, which is exercis'd in every part, from the Brain: but I think 'tis not doubted that all the reſt have both their ſeat and function in the Head; and whatſoever is uſeful or hurtful to a man, is by them repreſented to the underſtanding; as *Ariſtotle* ſays, *Nihil eſt in intellectu, quod non ſit prius in ſenſu.* This is properly the part of every Magiſtrate: He is the Sentinel of the Publick, and is to repreſent what he diſcovers beneficial or hurtful to the Society; which Office belongs not only to the ſupreme, but proportionably to the ſubordinate. In this ſenſe were the chief men among the *Iſraelites* call'd *Heads*
1 Chron. 7. 40. *of their Fathers houſe, choice and mighty men of valor, chief of the Princes.* And in the following Chapter mention is made of *nine hundred and fifty Benjamites, chief men in the Houſe of their Fathers.* Theſe men exercis'd a charitable care over ſuch as were inferior to them in power and valor, without any ſhadow of ſovereignty, or poſſibility that there could be ſo many Sovereigns: and ſuch as were under their care are ſaid to be their Brethren; which is not a word of majeſty and domination, but of dearneſs and equality. The name therefore of Head may be given to a Sovereign, but it implys nothing of ſovereignty; and muſt be exercis'd with charity, which always terminates in the good of others. The Head cannot correct or chaſtiſe; the proper work of that part is only to indicate, and he who takes upon him to do more, is not the Head. A natural body is homogeneous, and cannot ſubſiſt if it be not ſo. We cannot take one part of a Horſe, another of a Bear, and put upon them the head of a Lion; for it would be a Monſter, that would have neither action nor life. The Head muſt be of the ſame nature with the other Members, or it cannot ſubſiſt. But the Lord or Maſter differs *in ſpecie* from his Servants and Slaves, he is not therefore properly their Head.

Beſides, the Head cannot have a ſubſiſtence without the Body, nor any intereſt contrary to that of the Body; and 'tis impoſſible for any thing to be good for the Head, that is hurtful to the Body. A Prince therefore, or Magiſtrate, who ſets up an intereſt in himſelf diſtinct from, or repugnant to that of the people, renounces the title or quality of their Head. Indeed *Moſes* was the Head of the *Iſraelites*; for when God threaten'd to deſtroy that People, and promis'd to make him a great Nation, he wav'd the particular advantages offer'd to himſelf, interceded for them, and procur'd their pardon. Yet he was not able to bear the weight of the Government alone, but deſir'd that ſome might be appointed to aſſiſt him. *Gideon* was the Head of the ſame people, but he would not reign himſelf, nor ſuffer his Sons to reign over them. *Samuel* was alſo their Head; he took nothing from any man, defrauded none, took bribes from no man, oppreſt none: God and the People were his witneſſes: He blam'd them for their Rebellion againſt God in asking a King, but was no way concern'd for himſelf or his Family. *David* likewiſe had a right to that Title; for

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he deſir'd that God would ſpare the People, and turn the effect of his anger againſt himſelf, and the houſe of his Father. But *Rehoboam* was not their Head; for tho he acknowledg'd that his Father had laid a heavy yoke upon them, yet he told them he would add to the weight; and that if his Father had chaſtis'd them with Whips, he would chaſtiſe them with Scorpions. The Head is no burden to the Body, and can lay none upon it; the Head cannot chaſtiſe any member; and he who dos ſo, be it more or leſs, cannot be the Head. *Jeroboam* was not the Head of the revolting Tribes; for the Head takes care of the Members, and provides for the ſafety of the whole: But he thro fear that the people, going to *Jeruſalem* to worſhip, ſhould return to the houſe of *David*, by ſetting up Idols to ſecure his own intereſts, drew guilt and deſtruction upon them. Tho it ſhould be granted that *Auguſtus* by a gentle uſe of his power, had in a manner expiated the deteſtable Villanys committed in the acquiſition, and had truly deſerv'd to be call'd the Head of the *Romans*; yet that title could no way belong to *Caligula*, *Claudius*, *Nero* or *Vitellius*, who neither had the qualitys requir'd in the Head, nor the underſtanding or will to perform the office. Nay, if I ſhould carry the matter farther, and acknowledg that *Brutus*, *Cincinnatus*, *Fabius*, *Camillus*, and others, who, in the time of their annual or ſhorter Magiſtracys, had by their vigilance, vertue, and care to preſerve the City in ſafety, and to provide for the publick good, perform'd the office of the Head, and might deſerve the name; I might juſtly deny it to the greateſt Princes that have bin in the world, who having their power for life, and leaving it to deſcend to their children, have wanted the Vertues requir'd for the performance of their duty: And I ſhould leſs fear to be guilty of an abſurdity in ſaying, that a Nation might every year change its Head, than that he can be the Head, who cares not for the Members, nor underſtands the things that conduce to their good, moſt eſpecially if he ſets up an Intereſt in himſelf againſt them. It cannot be ſaid that theſe are imaginary caſes, and that no Prince dos theſe things; for the proof is too eaſy, and the examples too numerous. *Caligula* could not have wiſh'd the *Romans* but one Head, that he might cut it off at once, if he had bin that Head, and had advanc'd no Intereſt contrary to that of the Members. *Nero* had not burnt the City of *Rome*, if his concernments had bin inſeparably united to thoſe of the people. He who caus'd above three hundred thouſand of his innocent unarm'd Subjects to be murder'd, and fill'd his whole Kingdom with fire and blood, did ſet up a perſonal Intereſt repugnant to that of the Nation; and no better teſtimony can be requir'd to ſhew that he did ſo, than a Letter written by his Son, to take off the penalty due to one of the chief Miniſters of thoſe crueltys, for this reaſon, that what he had done, was *by the command and for the ſervice of his Royal Father*. King *John* did not purſue the advantage of his people, when he endeavour'd to ſubject them to the Pope or the *Moors*. And whatever Prince ſeeks aſſiſtance from foreign Powers, or makes Leagues with any ſtranger or enemy for his own advantage againſt his people, however ſecret the Treaty may be, declares himſelf not to be the Head, but an enemy to them. The Head cannot ſtand in need of an exterior help againſt the Body, nor ſubſiſt when divided from it. He therefore that courts ſuch an aſſiſtance, divides himſelf from the Body; and if he dos ſubſiſt, it muſt be by a life he has in himſelf, diſtinct from that of the Body, which the Head cannot have.

SECT. 39.

CHAP. III. But beſides theſe enormitys, that teſtify the moſt wicked rage and fury in the higheſt degree, there is another practice, which no man that knows the world can deny to be common with Princes, and incompatible with the nature of a Head. The Head cannot deſire to draw all the nouriſhment of the Body to it ſelf, nor more than a due proportion. If the reſt of the parts are ſick, weak or cold, the Head ſuffers equally with them; and if they periſh, muſt periſh alſo. Let this be compar'd with the actions of many Princes we know, and we ſhall ſoon ſee which of them are Heads of their people. If the Gold brought from the *Indys* has bin equally diſtributed by the Kings of *Spain* to the body of that Nation, I conſent they may be call'd the Heads. If the Kings of *France* aſſume no more of the Riches of that great Kingdom than their due proportion, let them alſo wear that honourable name. But if the naked backs and empty bellys of their miſerable Subjects evince the contrary, it can by no means belong to them. If thoſe great Nations waſt and languiſh; if nothing be ſo common in the beſt Provinces belonging to them, as miſery, famin, and all the effects of the moſt outrageous oppreſſion, whilſt their Princes and Favorites poſſeſs ſuch treaſures as the moſt wanton prodigality cannot exhauſt; if that which is gain'd by the ſweat of ſo many millions of men, be torn out of the mouths of their ſtarving Wives and Children, to foment the vices of thoſe luxurious Courts, or reward the Miniſters of their luſts, the nouriſhment is not diſtributed equally to all the parts of the Body; the oeconomy of the whole is overthrown, and they who do theſe things, cannot be the Heads, nor parts of the Body, but ſomething diſtinct from and repugnant to it. 'Tis not therefore he who is found in, or advanc'd to the place of the Head, who is truly the Head: 'Tis not he who ought, but he who dos perform the office of the Head, that deſerves the name and privileges belonging to the Head. If our Author therefore will perſuade us that any King is Head of his People, he muſt do it by Arguments peculiarly relating to him, ſince thoſe in general are found to be falſe. If he ſay that the King as King may direct or correct the people, and that the power of determining all controverſys muſt be refer'd to him, becauſe they may be miſtaken, he muſt ſhow that the King is infallible; for unleſs he dos ſo, the wound is not cur'd. This alſo muſt be by ſome other way, than by ſaying he is their Head; for ſuch Powers belong not to the office of the Head, and we ſee that all Kings do not deſerve that Name: Many of them want both underſtanding and will to perform the functions of the Head; and many act directly contrary in the whole courſe of their Government. If any therefore among them have merited the glorious name of Heads of Nations, it muſt have bin by their perſonal Vertues, by a vigilant care of the good of their People, by an inſeparable conjunction of intereſts with them, by an ardent love to every member of the Society, by a moderation of ſpirit affecting no undue Superiority, or aſſuming any ſingular advantage which they are not willing to communicate to every part of the political Body. He who finds this merit in himſelf, will ſcorn all the advantages that can be drawn from miſapply'd names: He that knows ſuch honor to be peculiarly due to him for being the beſt of Kings, will never glory in that which may be common to him with the worſt. Nay, whoever pretends by ſuch general diſcourſes as theſe of our Author, to advance the particular Intereſts of any one King, dos either know he is of no merit, and that nothing can be ſaid for him which will not as well agree with the worſt of men; or cares not what he ſays ſo he may do miſchief;

and

and is well enough contented, that he who is ſet up by ſuch Maxims as a publick plague, may fall in the ruin he brings upon the people. SECT. 40.

SECT. XL.

Good Laws preſcribe eaſy and ſafe Remedys againſt the Evils proceeding from the Vices or infirmitys of the Magiſtrate; and when they fail, they muſt be ſupply'd.

THOSE who deſire to advance the power of the Magiſtrate above the Law, would perſuade us, that the difficultys and dangers of inquiring into his actions, or oppoſing his will when employ'd in violence and injuſtice, are ſo great, that the remedy is always worſe than the diſeaſe; and that 'tis better to ſuffer all the evils that may proceed from his infirmitys and vices, than to hazard the conſequences of diſpleaſing him. But on the contrary, I think and hope to prove,

1. That in well-conſtituted Governments, the remedys againſt ill Magiſtrats are eaſy and ſafe.

2. That 'tis good, as well for the Magiſtrate as the People, ſo to conſtitute the Government, that the Remedys may be eaſy and ſafe.

3. That how dangerous and difficult ſoever they may be thro the defects of the firſt Conſtitution, they muſt be try'd.

To the firſt: 'Tis moſt evident that in well-regulated Governments theſe Remedys have bin found to be eaſy and ſafe. The Kings of *Sparta* were not ſuffer'd in the leaſt to deviate from the rule of the Law: And *Theopompus* one of thoſe Kings, in whoſe time the *Ephori* were created, and the regal Power much reſtrain'd, doubted not to affirm, that it was by that means become more laſting and more ſecure. *Pauſanias* had not the name of King, but commanded in the War againſt *Xerxes* with more than regal Power; nevertheleſs being grown inſolent, he was without any trouble to that State baniſh'd and afterwards put to death. *Leonidas* Father of *Cleomenes*, was in the like manner baniſh'd. The ſecond *Agis* was moſt unjuſtly put to death by the *Ephori*, for he was a brave and a good Prince; but there was neither danger nor difficulty in the action. Many of the *Roman* Magiſtrats, after the expulſion of the Kings, ſeem to have bin deſirous to extend their Power beyond the bounds of the Law; and perhaps ſome others as well as the *Decemviri*, may have deſign'd an abſolute Tyranny; but the firſt were reſtrain'd, and the others without much difficulty ſuppreſt. Nay, even the Kings were ſo well kept in order, that no man ever pretended to the Crown unleſs he were choſen, nor made any other uſe of his Power than the Law permitted, except the laſt *Tarquin*, who by his inſolence, avarice and cruelty, brought ruin upon himſelf and his family. I have already mention'd one or two Dukes of *Venice* who were not leſs ambitious, but their crimes return'd upon their own heads, and they periſh'd without any other danger to the State than what had paſs'd before their Treaſons were diſcover'd. Infinite examples of the like nature may be alledg'd; and if matters have not at all times, and in all places, ſucceeded in the ſame manner, it has bin becauſe the ſame courſes were Plutarch.

not

CHAP. III.

not every where taken; for all things do ſo far follow their cauſes, that being order'd in the ſame manner, they will always produce the ſame effects.

2. To the ſecond: Such a regulation of the magiſtratical Power is not at all grievous to a good Magiſtrate. He who never deſires to do any thing but what he ought, cannot deſire a Power of doing what he ought not, nor be troubled to find he cannot do that which he would not do if he could. This inability is alſo advantageous to thoſe who are evil or unwiſe; that ſince they cannot govern themſelves, a Law may be impos'd upon them, leſt by following their own irregular will, they bring deſtruction upon themſelves, their familys and people, as many have done. If *Apollo* in the Fable had not bin too indulgent to *Phaeton*, in granting his ill conceiv'd requeſt, the furious Youth had not brought a neceſſity upon *Jupiter*, either of deſtroying him, or ſuffering the world to be deſtroy'd by him.

Beſides, good and wiſe men know the weight of Sovereign Power, and miſdoubt their own ſtrength. Sacred and human Hiſtorys furniſh us with many examples of thoſe who have fear'd the luſtre of a Crown. Men that find in themſelves no delight in doing miſchief, know not what thoughts may inſinuate into their minds, when rais'd too much above their Sphere. They who were able to bear adverſity, have bin precipitated into ruin by proſperity. When the Prophet told *Hazael* the Villanys he would commit, he anſwer'd, *Is thy Servant a dog, that I ſhould do theſe things?* but yet he did them. I know not where to find an example of a man more excellently qualify'd than *Alexander* of *Macedon*; but he fell under the weight of his own fortune, and grew to exceed thoſe in vice, whom he had conquer'd by his vertue. The nature of man can hardly ſuffer ſuch violent changes without being diſorder'd by them; and every one ought to enter into a juſt diffidence of himſelf, and fear the temptations that have deſtroy'd ſo many. If any man be ſo happily born, ſo carefully educated, ſo eſtabliſh'd in vertue, that no ſtorm can ſhake him, nor any poiſon corrupt him, yet he will conſider he is mortal; and knowing no more than *Solomon*, whether his Son ſhall be a wiſe man or a fool, he will always fear to take upon him a power, which muſt prove a moſt peſtilent evil both to the perſon that has it, and to thoſe that are under it, as ſoon as it ſhall fall into the hands of one, who either knows not how to uſe it, or may be eaſily drawn to abuſe it. Supreme Magiſtrats always walk in obſcure and ſlippery places: but when they are advanc'd ſo high, that no one is near enough to ſupport, direct or reſtrain them, their fall is inevitable and mortal. And thoſe Nations that have wanted the prudence rightly to balance the powers of their Magiſtrats, were frequently oblig'd to have recourſe to the moſt violent remedys, and with much difficulty, danger and blood, to puniſh the crimes which they might have prevented. On the other ſide, ſuch as have bin more wiſe in the conſtitution of their Governments, have always had regard to the frailty of human nature, and the corruption reigning in the hearts of men; and being leſs liberal of the power over their lives and libertys, have reſerv'd to themſelves ſo much as might keep their Magiſtrats within the limits of the Law, and oblige them to perform the ends of their Inſtitution. And as the Law which denounces ſevere penaltys for crimes, is indeed merciful both to ill men, who are by that means deter'd from committing them; and to the good, who otherwiſe would be deſtroy'd; ſo thoſe Nations

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that have kept the reins in their hands, have by the ſame act provided as well for the ſafety of their Princes as for their own. They who know the Law is well defended, ſeldom attempt to ſubvert it: they are not eaſily tempted to run into exceſſes, when ſuch bounds are ſet, as may not ſafely be tranſgreſt; and whilſt they are by theſe means render'd more moderate in the exerciſe of their Power, the People are exempted from the odious neceſſity of ſuffering all manner of indignitys and miſerys from their Princes, or by their deſtruction to prevent or avenge them. SECT. 40.

3. To the third: If theſe Rules have not bin well obſerv'd in the firſt conſtitution, or from the changes of times, corruption of manners, inſenſible encroachments, or violent uſurpations of Princes, have bin render'd ineffectual, and the People expos'd to all the calamitys that may be brought upon them by the weakneſs, vices and malice of the Prince, or thoſe who govern him, I confeſs the remedys are more difficult and dangerous: but even in thoſe caſes they muſt be try'd. Nothing can be fear'd that is worſe than what is ſuffer'd, or muſt in a ſhort time fall upon thoſe who are in this condition. They who are already fallen into all that is odious, ſhameful and miſerable, cannot juſtly fear. When things are brought to ſuch a paſs, the boldeſt counſels are the moſt ſafe; and if thoſe muſt * periſh who lie ſtill, and they can but periſh who are moſt active, the choice is eaſily made. Let the danger be never ſo great, there is a poſſibility of ſafety, whilſt men have life, hands, arms, and courage to uſe them; but that People muſt certainly periſh, who tamely ſuffer themſelves to be oppreſt, either by the injuſtice, cruelty and malice of an ill Magiſtrate, or by thoſe who prevail upon the vices and infirmitys of weak Princes. 'Tis in vain to ſay, that this may give occaſion to men of raiſing tumults or civil war; for tho theſe are evils, yet they are not the greateſt of evils. Civil War in *Macchiavel*'s account is a Diſeaſe, but Tyranny is the Death of a State. Gentle ways are firſt to be us'd, and 'tis beſt if the work can be done by them; but it muſt not be left undone if they fail. 'Tis good to uſe ſupplications, advices and remonſtrances; but thoſe who have no regard to Juſtice, and will not hearken to Counſel, muſt be conſtrain'd. 'Tis folly to deal otherwiſe with a man who will not be guided by Reaſon, and a Magiſtrate who deſpiſes the Law: or rather to think him a man, who rejects the eſſential principle of a man; or to account him a Magiſtrate who overthrows the Law by which he is a Magiſtrate. This is the laſt reſult; but thoſe Nations muſt come to it, which cannot otherwiſe be preſerv'd. *Nero*'s madneſs was not to be cur'd, nor the miſchievous effects of it any otherwiſe to be ſuppreſt than by his death. He who had ſpar'd ſuch a Monſter when it was in his power to remove him, had brought deſtruction upon the whole Empire; and by a fooliſh clemency made himſelf the Author of his future villanys. This would have bin yet more clear, if the World had then bin in ſuch a temper as to be capable of an intire liberty. But the antient foundations had bin overthrown, and nothing better could be built upon the new, than ſomething that might in part reſiſt that torrent of iniquity, which had overflow'd the beſt part of the World, and give Mankind a little time to breath under a leſs barbarous Maſter. Yet all the beſt men did join in the work that was then to be done, tho they knew it would prove

* Moriendum victis, moriendum deditis: id ſolum intereſt, an inter cruciatus & ludibria, an per virtutem expiremus. *C. Tacit.* Quod ſi nocentes innocenteſq; idem exitus maneat, acrioris viri eſt meritò perire. *Ibid.*

but

CHAP. III.

but imperfect. The Sacred Hiſtory is not without examples of this kind: When *Ahab* had ſubverted the Law, ſet up falſe Witneſſes and corrupt Judges to deſtroy the innocent, kill'd the Prophets, and eſtabliſh'd Idolatry, his houſe muſt then be cut off, and his blood be lick'd up by dogs. When matters are brought to this paſs, the deciſion is eaſy. The queſtion is only, Whether the puniſhment of crimes ſhall fall upon one or a few Perſons who are guilty of them, or upon a whole Nation that is innocent. If the Father may not dy for the Son, nor the Son for the Father, but every one muſt bear the penalty of his own crimes, it would be moſt abſurd to puniſh the People for the guilt of Princes. When the Earl of *Morton* was ſent Embaſſador to Q. *Elizabeth* by the Eſtates of *Scotland*, to juſtify their proceedings againſt *Mary* their Queen, whom they had oblig'd to renounce the Government; he alledg'd amongſt other things the murder of her Husband plainly prov'd againſt her; aſſerted the antient Right and Cuſtom of that Kingdom, of * examining the actions of their Kings; by which means, he ſaid, many had bin † puniſh'd with death, impriſonment and exile; confirm'd their actions by the examples of other Nations; and upon the whole matter concluded, that if ſhe was ſtill permitted to live, it was not on account of her innocence, or any exemption from the penaltys of the Law, but from the mercy and clemency of the People, who contenting themſelves with a reſignation of her Right and Power to her Son, had ſpar'd her. This Diſcourſe, which is ſet down at large by the Hiſtorian cited on the Margin, being of ſuch ſtrength in it ſelf as never to have bin any otherwiſe anſwer'd than by railing, and no way diſapprov'd by Queen *Elizabeth* or her Council to whom it was made, either upon a general account of the pretenſions of Princes to be exempted from the penaltys of the Law, or any pretext that they had particularly miſapply'd them in relation to their Queen; I may juſtly ſay, that when Nations fall under ſuch Princes as are either utterly uncapable of making a right uſe of their Power, or do maliciouſly abuſe that Authority with which they are entruſted, thoſe Nations ſtand oblig'd, by the duty they owe to themſelves and their poſterity, to uſe the beſt of their endeavors to remove the evil, whatever danger or difficultys they may meet with in the performance. *Pontius* the *Samnite* ſaid as truly as bravely to his Countrymen, That ‖ *thoſe Arms were juſt and pious that were neceſſary, and neceſſary when there was no hope of ſafety by any other way.* This is the voice of Mankind, and is diſlik'd only by thoſe Princes, who fear the deſerv'd puniſhments that may fall upon them; or by their Servants and Flatterers, who being for the moſt part the authors of their crimes, think they ſhall be involv'd in their ruin.

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* Animadvertendi in reges.

† Morte, vinculis & exilio puniti. *Buchan. hiſt. Scot. l.* 20. Qui tot reges regno exuerunt, exilio damnarunt, carceribus coercuerunt, ſupplicio deniq; affecerunt, nec unquam tamen de acerbitate legis minuenda mentio eſt facta, &c. *Ibid.* Facile apparet regnum nihil aliud eſſe, quam mutuam inter regem & populum ſtipulationem. Non de illarum ſanctionum genere, quæ mutationibus temporum ſunt obnoxiæ, ſed in primo generis humani exortu, & mutuo prope omnium gentium conſenſu comprobatæ, & unà cum rerum natura infragiles & ſempiternæ perennent. *Ibid.*

‖ Juſta piaq; ſunt arma, quibus neceſſaria, & neceſſaria, quibus nulla niſi in armis ſpes eſt ſalutis. *T. Liv. lib.* 8.

SECT.

SECT. XLI.

The People for whom and by whom the Magiſtrate is created, can only judg whether he rightly perform his Office or not.

'TIS commonly ſaid, that no man ought to be the Judg of his own caſe; and our Author lays much weight upon it as a fundamental Maxim, tho according to his ordinary inconſtancy he overthrows it in the caſe of Kings, where it ought to take place if in any; for it often falls out that no men are leſs capable of forming a right judgment than they. Their paſſions and intereſts are moſt powerful to diſturb or pervert them. No men are ſo liable to be diverted from Juſtice by the flatterys of corrupt Servants. They never act as Kings, except for thoſe by whom and for whom they are created; and acting for others, the account of their actions cannot depend upon their own will. Nevertheleſs I am not afraid to ſay, that naturally and properly a man is the judg of his own concernments. No one is or can be depriv'd of this privilege, unleſs by his own conſent, and for the good of that Society into which he enters. This Right therefore muſt neceſſarily belong to every man in all caſes, except only ſuch as relate to the good of the Community, for whoſe ſake he has deveſted himſelf of it. If I find my ſelf afflicted with hunger, thirſt, wearineſs, cold, heat, or ſickneſs, 'tis a folly to tell me, I ought not to ſeek meat, drink, reſt, ſhelter, refreſhment, or phyſick, becauſe I muſt not be the judg of my own caſe. The like may be ſaid in relation to my houſe, land, or eſtate; I may do what I pleaſe with them, if I bring no damage upon others. But I muſt not ſet fire to my houſe, by which my Neighbour's houſe may be burnt. I may not erect Forts upon my own Lands, or deliver them to a foreign Enemy, who may by that means infeſt my Country. I may not cut the Banks of the Sea, or thoſe of a River, leſt my Neighbour's Ground be overflown, becauſe the Society into which I am incorporated, would by ſuch means receive prejudice. My Land is not ſimply my own, but upon condition that I ſhall not thereby bring damage upon the Publick, by which I am protected in the peaceable enjoyment and innocent uſe of what I poſſeſs. But this Society leaves me a liberty to take Servants, and put them away at my pleaſure. No man is to direct me, of what quality or number they ſhall be, or can tell me whether I am well or ill ſerv'd by them. Nay, the State takes no other cognizance of what paſſes between me and them, than to oblige me to perform the contracts I make, and not to do that to them which the Law forbids: that is to ſay, the Power to which I have ſubmitted my ſelf, exerciſes that juriſdiction over me, which was eſtabliſh'd by my conſent, and under which I enjoy all the benefits of Life, which are of more advantage to me than my Liberty could have bin, if I had retain'd it wholly in my ſelf. The nature alſo and meaſure of this ſubmiſſion muſt be determin'd by the reaſons that induc'd me to it. The Society in which I live cannot ſubſiſt unleſs by rule; the equality in which men are born is ſo perfect, that no man will ſuffer his natural Liberty to be abridg'd, except others do the like: I cannot reaſonably expect to be defended from wrong, unleſs I oblige my ſelf to do none; or to ſuffer the puniſhment preſcrib'd by the Law, if I perform not

CHAP. III.

my engagement. But without prejudice to the Society into which I enter, I may and do retain to my ſelf the Liberty of doing what I pleaſein all things relating peculiarly to my ſelf, or in which I am to ſeek my own convenience.

Now if a private man is not ſubject to the judgment of any other, than thoſe to whom he ſubmits himſelf for his own ſafety and convenience; and notwithſtanding that ſubmiſſion, ſtill retains to himſelf the right of ordering according to his own will all things merely relating to himſelf, and of doing what he pleaſes in that which he dos for his own ſake; the ſame right muſt more certainly belong to whole Nations. When a controverſy happens between *Caius* and *Seius* in a matter of Right, neither of them may determin the cauſe, but it muſt be refer'd to a Judg ſuperior to both; not becauſe 'tis not fit that a man ſhould be judg of his own caſe, but becauſe they have both an equal Right, and neither of them ows any ſubjection to the other. But if there be a conteſt between Me and my Servant concerning my Service, I only am to decide it: He muſt ſerve me in my own way, or be gone if I think fit, tho he ſerves me never ſo well; and I do him no wrong in putting him away, if either I intend to keep no Servant, or find that another will pleaſe me better. I cannot therefore ſtand in need of a Judg, unleſs the conteſt be with one who lives upon an equal foot with me. No man can be my Judg, unleſs he be my Superior; and he cannot be my Superior, who is not ſo by my conſent, nor to any other purpoſe than I conſent to. This cannot be the caſe of a Nation, which can have no equal within it ſelf. Controverſys may ariſe with other Nations, the deciſion of which may be left to Judges choſen by mutual agreement; but this relates not to our Queſtion. A Nation, and moſt eſpecially one that is powerful, cannot recede from its own Right; as a private man from the knowledg of his own weakneſs and inability to defend himſelf, muſt come under the protection of a greater Power than his own. The ſtrength of a Nation is not in the Magiſtrate, but the ſtrength of a Magiſtrate is in the Nation. The wiſdom, induſtry and valor of a Prince may add to the glory and greatneſs of a Nation, but the foundation and ſubſtance will always be in it ſelf. If the Magiſtrate and People were upon equal terms, as *Caius* and *Seius*, receiving equal and mutual advantages from each other, no man could be judg of their differences, but ſuch as they ſhould ſet up for that end. This has bin done by many Nations. The antient *Germans* refer'd the deciſion of the moſt difficult matters to their Prieſts: the *Gauls* and *Britans* to the *Druides:* the *Mahometans* for ſome Ages to the Califs of *Babylon:* the *Saxons* in *England*, when they had embrac'd the Chriſtian Religion, to their Clergy. Whilſt all *Europe* lay under the Popiſh Superſtition, the deciſion of ſuch matters was frequently aſſum'd by the Pope; men often ſubmitted to his judgment, and the Princes that reſiſted were for the moſt part excommunicated, depos'd, and deſtroy'd. All this was done for the ſame reaſons. Theſe men were accounted holy and inſpir'd, and the Sentence pronounc'd by them was uſually reverenc'd as the Judgment of God, who was thought to direct them; and all thoſe who refus'd to ſubmit, were eſteem'd execrable. But no man, or number of men, as I think, at the inſtitution of a Magiſtrate, did ever ſay, If any difference happen between you or your Succeſſors and us, it be ſhall determin'd by your ſelf or by them, whether they be men, women, children, mad, fooliſh, or vicious. Nay, if any ſuch thing had bin,

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the folly, turpitude and madneſs of ſuch a ſanction or ſtipulation muſt neceſſarily have deſtroy'd it. But if no ſuch thing was ever known, or could have no effect if it had bin in any place, 'tis moſt abſurd to impoſe it upon all. The People therefore cannot be depriv'd of their natural rights upon a frivolous pretence to that which never was and never can be. They who create Magiſtracys, and give to them ſuch name, form and power as they think fit, do only know, whether the end for which they were created, be perform'd or not. They who give a being to the power which had none, can only judg whether it be employ'd to their welfare, or turn'd to their ruin. They do not ſet up one or a few men, that they and their poſterity may live in ſplendor and greatneſs, but that Juſtice may be adminiſter'd, Vertue eſtabliſh'd, and proviſion made for the publick ſafety. No wiſe man will think this can be done, if thoſe who ſet themſelves to overthrow the Law, are to be their own Judges. If *Caligula*, *Nero*, *Vitellius*, *Domitian*, or *Heliogabalus*, had bin ſubject to no other judgment, they would have compleated the deſtruction of the Empire. If the diſputes between *Durſtus*, *Evenus* the third, *Dardannus*, and other Kings of *Scotland*, with the Nobility and People, might have bin determin'd by themſelves, they had eſcap'd the puniſhments they ſuffer'd, and ruin'd the Nation as they deſign'd. Other methods were taken; they periſh'd by their madneſs; better Princes were brought into their places, and their Succeſſors were by their example admoniſh'd to avoid the ways that had prov'd fatal to them. If *Edward* the ſecond of *England* with *Gaveſton* and the *Spencers*, *Richard* the ſecond with *Treſilian* and *Vere*, had bin permitted to be the Judges of their own caſes, they who had murder'd the beſt of the Nobility would have purſu'd their deſigns to the deſtruction of ſuch as remain'd, the enſlaving of the Nation, the ſubverſion of the Conſtitution, and the eſtabliſhment of a mere Tyranny in the place of a mix'd Monarchy. But our Anceſtors took better meaſures: They who had felt the ſmart of the vices and follys of their Princes, knew what remedys were moſt fit to be apply'd, as well as the beſt time of applying them. They found the effects of extreme corruption in Government to be ſo deſperately pernicious, that Nations muſt neceſſarily periſh, unleſs it be corrected, and the State reduc'd to its firſt principle, or alter'd. Which being the caſe, it was as eaſy for them to judg, whether the Governor who had introduc'd that corruption ſhould be brought to order, or remov'd if he would not be reclaim'd; or whether he ſhould be ſuffer'd to ruin them and their poſterity; as it is for me to judg, whether I ſhould put away my Servant, if I knew he intended to poiſon or murder me, and had a certain facility of accompliſhing his deſign; or whether I ſhould continue him in my ſervice till he had perform'd it. Nay, the matter is ſo much the more plain on the ſide of the Nation, as the diſproportion of merit between a whole people, and one or a few men entruſted with the power of governing them, is greater than between a private man and his ſervant. This is ſo fully confirm'd by the general conſent of mankind, that we know no Government that has not frequently either bin alter'd in form, or reduc'd to its original purity, by changing the familys or perſons who abus'd the power with which they had bin entruſted. Thoſe who have wanted Wiſdom and Vertue rightly and ſeaſonably to perform this, have bin ſoon deſtroy'd; like the *Goths* in *Spain*, who by omitting to curb the fury of *Witza* and *Rodrigo* in time, became a prey to the *Moors*. Their Kingdom, by this means deſtroy'd, was never reſtor'd; and the remain-

SECT. 41.

Mariana.

CHAP. III.

der of that Nation, joining with the *Spaniards*, whom they had kept in ſubjection for three or four Ages, could not in leſs than eight hundred years, expel thoſe enemys they might have kept out, only by removing two baſe and vitious Kings. Such Nations as have bin ſo corrupted, that when they have apply'd themſelves to ſeek remedys to the evils they ſuffer'd by wicked Magiſtrats, could not fall upon ſuch as were proportionable to the diſeaſe, have only vented their Paſſions in deſtroying the immediate inſtruments of their oppreſſion, or for a while delay'd their utter ruin. But the root ſtill remaining, it ſoon produc'd the ſame poiſonous fruit, and either quite deſtroy'd, or made them languiſh in perpetual miſery. The *Roman* Empire was the moſt eminent example of the firſt; many of the monſters that had tyranniz'd over them were kill'd, but the greateſt advantage gain'd by their death, was a reſpite from ruin; and the Government, which ought to have bin eſtabliſh'd by good Laws, depending only upon the Vertue of one man, his Life prov'd to be no more than a lucid interval, and at his death they relaps'd into the depth of Infamy and Miſery: and in this condition they continu'd till that Empire was totally ſubverted.

All the Kingdoms of the *Arabians*, *Medes*, *Perſians*, *Moors*, and others of the Eaſt, are of the other ſort. Common ſenſe inſtructs them, that barbarous pride, cruelty, and madneſs grown to extremity, cannot be born: but they have no other way than to kill the Tyrant, and to do the like to his Succeſſor if he falls into the ſame crimes. Wanting that Wiſdom and Valor which is requir'd for the inſtitution of a good Government, they languiſh in perpetual ſlavery, and propoſe to themſelves nothing better than to live under a gentle Maſter, which is but a precarious life, and little to be valu'd by men of bravery and ſpirit. But thoſe Nations that are more generous, who ſet a higher value upon Liberty, and better underſtand the ways of preſerving it, think it a ſmall matter to deſtroy a Tyrant, unleſs they can alſo deſtroy the Tyranny. They endeavour to do the work thorowly, either by changing the Government intirely, or reforming it according to the firſt inſtitution, and making ſuch good Laws as may preſerve its integrity when reform'd. This has bin ſo frequent in all the Nations (both antient and modern) with whoſe actions we are beſt acquainted, as appears by the foregoing examples, and many others that might be alledg'd if the caſe were not clear, that there is not one of them which will not furniſh us with many inſtances; and no one Magiſtracy now in being which dos not owe its original to ſome Judgment of this nature. So that they muſt either derive their right from ſuch actions, or confeſs they have none at all, and leave the Nations to their original Liberty of ſetting up thoſe Magiſtracys which beſt pleaſe themſelves, without any reſtriction or obligation to regard one perſon or family more than another.

SECT.

SECT. XLII.

The Perſon that wears the Crown cannot determin the Affairs which the Law refers to the King.

OUR Author, with the reſt of the vulgar, ſeems to have bin led into groſs errors by the form of Writs ſummoning perſons to appear before the King. The common ſtile us'd in the trial of Delinquents; the name of the King's Witneſſes given to thoſe who accuſe them; the Verdicts brought in by Jurys, *coram domino Rege*, and the proſecution made in the King's name, ſeem to have caus'd this. And they who underſtand not theſe Phraſes, render the Law a heap of the moſt groſs abſurditys, and the King an Enemy to every one of his Subjects, when he ought to be a Father to them all; ſince without any particular conſideration or examination of what any Witneſs depoſes in a Court of Juſtice, tending to the death, confiſcation, or other puniſhment of any man, he is call'd the King's Witneſs whether he ſpeak the truth or a lie, and on that account favor'd. 'Tis not neceſſary to alledg many inſtances in a caſe that is ſo plain; but it may not be amiſs to inſert two or three of the moſt important reaſons to prove my aſſertion.

1. If the Law did intend that he or ſhe who wears the Crown, ſhould in his or her perſon judg all cauſes, and determin the moſt difficult queſtions, it mnſt like our Author preſume that they will always be of profound wiſdom to comprehend all of them, and of perfect integrity always to act according to their underſtanding. Which is no leſs than to lay the foundation of the Government upon a thing merely contingent, that either never was, or very often fails, as is too much verify'd by experience, and the Hiſtorys of all Nations; or elſe to refer the deciſion of all to thoſe who thro the infirmitys of age, ſex or perſon, are often uncapable of judging the leaſt, or ſubject to ſuch paſſions and vices as would divert them from Juſtice tho they did underſtand it; both which ſeem to be almoſt equally prepoſterous.

2. The Law muſt alſo preſume that the Prince is always preſent in all the places where his name is us'd. The King of *France* is (as I have ſaid already) eſteem'd to be preſent * *on the ſeat of Juſtice* in all the Parliaments and ſovereign Courts of the Kingdom: and if his corporeal Preſence were by that phraſe to be underſtood, he muſt be in all thoſe diſtinct and far diſtant places at the ſame time; which abſurdity can hardly be parallel'd, unleſs by the Popiſh opinion of *Tranſubſtantiation*. But indeed they are ſo far from being guilty of ſuch monſtrous abſurdity, that he cannot in perſon be preſent at any trial, and no man can be judg'd if he be. This was plainly aſſerted to *Lewis* the 13*th* (when he would have bin at the Trial of the Duke of *Candale*) by the Preſident *de Bellievre*, who told him that as he could judg no man himſelf, ſo they could not judg any if he were preſent: upon which he retir'd.

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* Sur ſon lit de juſtice.

3. The

CHAP. III.

3. The Laws of moſt Kingdoms giving to Kings the Confiſcation of Delinquents eſtates, if they in their own perſons might give judgment upon them, they would be conſtituted both Judges and Partys; which, beſides the foremention'd incapacitys to which Princes are as much ſubject as other men, would tempt them by their own perſonal intereſt to ſubvert all manner of Juſtice.

This therefore not being the meaning of the Law, we are to inquire what it is; and the thing is ſo plain that we cannot miſtake, unleſs we do it wilfully. Some name muſt be us'd in all manner of Tranſactions, and in matters of publick concernment none can be ſo fit as that of the principal Magiſtrate. Thus are Leagues made, not only with Kings and Emperors, but with the Dukes of *Venice* and *Genoa*, the Avoyer and Senat of a Canton in *Switzerland*, and the Burgermaſter of an Imperial Town in *Germany*, and the States General of the United Provinces. But no man thinking, I preſume, theſe Leagues would be of any value, if they could only oblige the Perſons whoſe names are us'd, 'tis plain that they do not ſtipulate only for themſelves; and that their ſtipulations would be of no value if they were merely perſonal. And nothing can more certainly prove they are not ſo, than that we certainly know, thoſe Dukes, Avoyers and Burgermaſters can do nothing of themſelves. The power of the States-General of the United Provinces is limited to the points mention'd in the Act of Union made at *Utrecht*. The Empire is not oblig'd by any ſtipulation made by the Emperor without their conſent. Nothing is more common than for one King making a League with another, to exact a confirmation of their Agreement, by the Parliaments, Diets or General Eſtates; becauſe, ſays *Grotius*, a *Prince dos not ſtipulate for himſelf, but for the People under his Government*; and *a King depriv'd of his Kingdom, loſes the right of ſending an Embaſſador*. The Powers of *Europe* ſhew'd themſelves to be of this opinion in the caſe of *Portugal*. When *Philip* the ſecond had gain'd the poſſeſſion, they treated with him concerning the affairs relating to that Kingdom: Few regarded *Don Antonio*; and no man conſider'd the Dukes of *Savoy*, *Parma* or *Braganza*, who perhaps had the moſt plauſible Titles: But when his Grandſon *Philip* the fourth had loſt that Kingdom, and the People had ſet up the Duke of *Braganza*, they all treated with him as King. And the Engliſh Court, tho then in amity with *Spain*, and not a little influenc'd by a Spaniſh faction, gave example to others, by treating with him and not with *Spain* touching matters relating to that State. Nay, I have bin inform'd by thoſe who well underſtood the Affairs of that time, that the Lord *Cottington* adviſing the late King not to receive any perſons ſent from the Duke of *Braganza*, Rebel to his Ally the King of *Spain*, in the quality of Embaſſadors; the King anſwer'd, that he muſt look upon that perſon to be King of *Portugal*, who was acknowledg'd by the Nation. And I am miſtaken if his Majeſty now reigning did not find all the Princes and States of the world to be of the ſame mind, when he was out of his Kingdom, and could oblige no man but himſelf and a few followers by any Treaty he could make.

De Jur. Bel. l. 3.

For the ſame reaſon the names of Kings are us'd in Treatys, when they are either Children, or otherwiſe uncapable of knowing what Alliances are fit to be made or rejected; and yet ſuch Treatys do equally oblige them, their Succeſſors and People, as if they were of mature age and fit for government, No man therefore ought to think it ſtrange, if the King's name be us'd in domeſtick affairs, of which he neither

ought

ought nor can take any cognizance. In theſe caſes he is perpetually a Minor: he muſt ſuffer the Law to take its due courſe; and the Judges, thonominated by him, are oblig'd by Oath not to have any regard to his Letters or perſonal Commands. If a Man be ſu'd, he muſt appear; and a Delinquent is to be try'd *coram rege*, but no otherwiſe than *ſecundum legem terræ*, *according to the Law of the Land*, not the King's perſonal will or opinion. And the judgments given muſt be executed, whether they pleaſe him or not, it being always underſtood that he can ſpeak no otherwiſe than the Law ſpeaks, and is always preſent as far as the Law requires. For this reaſon a noble Lord who was irregularly detain'd in priſon in 1681, being by *Habeas Corpus* brought to the Bar of the King's Bench, where he ſu'd to be releas'd upon bail; and an ignorant Judg telling him he muſt apply himſelf to the King, he reply'd, that he came thither for that end; that the King might eat, drink, or ſleep where he pleas'd, but when he render'd Juſtice he was always in that place. The King that renders Juſtice is indeed always there; he never ſleeps; he is ſubject to no infirmity; he never dies unleſs the Nation be extinguiſh'd, or ſo diſſipated as to have no Government. No Nation that has a ſovereign Power within it ſelf, dos ever want this King. He was in *Athens* and *Rome*, as well as at *Babylon* and *Suſa*; and is as properly ſaid to be now in *Venice*, *Switzerland* or *Holland*, as in *France*, *Morocco* or *Turky*. This is he to whom we all owe a ſimple and unconditional obedience. This is he *who never dos any wrong:* 'Tis before him we appear, when we demand Juice, or render an account of our actions. All Jurys give their verdict in his ſight: They are his Commands that the Judges are bound and ſworn to obey, when they are not at all to conſider ſuch as they receive from the perſon that wears the Crown. 'Twas for Treaſon againſt him that *Treſilian*, and others like to him in ſeveral ages were hang'd. They gratify'd the luſts of the viſible Powers, but the inviſible King would not be mock'd. He caus'd Juſtice to be executed upon *Empſon* and *Dudley*. He was injur'd when the perjur'd wretches, who gave that accurs'd Judgment in the caſe of Shipmony, were ſuffer'd to eſcape the like puniſhment by means of the enſuing troubles which they had chiefly rais'd. And I leave it to thoſe who are concern'd, to conſider how many in our days may expect vengeance for the like crimes.

SECT. 42.

I ſhould here conclude this point, if the power of granting a *Noli proſeq: Ceſſet Proceſſus*, and Pardons which are ſaid to be annex'd to the perſon of the King, were not taken for a proof that all proceedings at Law depend upon his will. But whoever would from hence draw a general concluſion muſt firſt prove his propoſition to be univerſally true. If it be wholly falſe, no true deduction can be made; and if it be true only in ſome caſes, 'tis abſurd to draw from thence a general concluſion; and to erect a vaſt fabrick upon a narrow foundation is impoſſible. As to the general propoſition, I utterly deny it. The King cannot ſtop any Suit that I begin in my own name, or invalidate any Judgment I obtain upon it: He cannot releaſe a Debt of ten ſhillings due to me, nor a Sentence for the like ſum given upon an action of Battery, Aſſault, Treſpaſs, publick Nuiſance, or the like. He cannot pardon a man condemn'd upon an Appeal, nor hinder the perſon injur'd from appealing. His power therefore is not univerſal: if it be not univerſal, it cannot be inherent, but confer'd upon him, or entruſted by a ſuperior Power that limits it.

CHAP. III.

Theſe limits are fix'd by the Law, the Law therefore is above him. His proceedings muſt be regulated by the Law, and not the Law by his will. Beſides, the extent of thoſe limits can only be known by the intention of the Law that ſets them; and are ſo viſible, that none but ſuch as are wilfully blind can miſtake. It cannot be imagin'd that the Law, which dos not give a power to the King of pardoning a man that breaks my hedg, can intend he ſhould have power to pardon one who kills my father, breaks my houſe, robs me of my goods, abuſes my children and ſervants, wounds me, and brings me in danger of my life. Whatever power he has in ſuch caſes, is founded upon a preſumption, that he who has ſworn not to deny or delay juſtice to any man, will not break his Oath to interrupt it. And farther, as he dos nothing but what he may rightly do, *cum magnatum & ſapientum conſilio*; and that 'tis ſuppos'd, they will never adviſe him to do any thing, but what ought to be done, in order to attain the great ends of the Law, Juſtice, and the publick ſafety: nevertheleſs left this ſhould not be ſufficient to keep things in their due order, or that the King ſhould forget his Oath, not to delay or deny juſtice to any man, his Counſellors are expos'd to the ſevereſt puniſhments, if they adviſe him to do any thing contrary to it, and the Law upon which it is grounded. So that the utmoſt advantage the King can pretend to in this caſe, is no more than that of the *Norman*, who ſaid he had gain'd his cauſe, becauſe it depended upon a point that was to be decided by his Oath; that is to ſay, if he will betray the truſt repos'd in him, and perjure himſelf, he may ſometimes exempt a Villain from the puniſhment he deſerves, and take the guilt upon himſelf. I ſay ſometimes; for Appeals may be brought in ſome caſes, and the Waterman who had bin pardon'd by his Majeſty in the year 1680, for a murder he had committed, was condemn'd and hang'd at the Aſſizes upon an Appeal. Nay, in caſes of Treaſon, which ſome men think relate moſt particularly to the perſon of the King, he cannot always do it. *Gaveſton*, the two *Spencers*, *Treſilian*, *Empſon*, *Dudley*, and others, have bin executed as Traitors for things done by the King's command; and 'tis not doubted they would have bin ſav'd, if the King's power had extended ſo far. I might add the caſes of the Earls of *Strafford* and *Danby*; for tho the King ſign'd a Warrant for the execution of the firſt, no man doubts he would have ſav'd him, if it had bin in his power. The other continues in priſon notwithſtanding his pardon; and for any thing I know he may continue where he is, or come out in a way that will not be to his ſatisfaction unleſs he be found innocent, or ſomething fall out more to his advantage than his Majeſty's approbation of what he has done. If therefore the King cannot interpoſe his authority to hinder the courſe of the Law in conteſts between private men, nor remit the debts adjudg'd to be due, or the damages given to the perſons agriev'd, he can in his own perſon have no other power in things of this nature, than in ſome degree to mitigate the vindictive power of the Law; and this alſo is to be exercis'd no other way than as he is entruſted. But if he acts even in this capacity by a delegated power, and in few caſes, he muſt act according to the ends for which he is ſo entruſted, as the ſame Law ſays, *Cum magnatum & ſapientum conſilio*, and is not therein to purſue his own will and intereſts: If his Oath farther oblige him not to do it; and his Miniſters are liable to puniſhment, if they adviſe him otherwiſe: If in matters of Appeal he has no Power: and if his pardons have bin of no value, when contrary to his Oath he has abus'd that with which he

is entruſted, to the patronizing of crimes, and exempting ſuch delinquents from puniſhment, as could not be pardon'd without prejudice to the Publick: I may juſtly conclude, that the King, before whom every man is bound to appear, who dos perpetually and impartially diſtribute Juſtice to the Nation, is not the Man or Woman that wears the Crown; and that He or She cannot determin thoſe matters, which by the Law are refer'd to the King. Whether therefore ſuch matters are ordinary or extraordinary, the deciſion is and ought to be plac'd where there is moſt wiſdom and ſtability, and where paſſion and private intereſt dos leaſt prevail to the obſtruction of Juſtice. This is the only way to obviate that confuſion and miſchief, which our Author thinks it would introduce. In caſes of the firſt ſort, this is done in *England* by Judges and Jurys: In the other by the Parliament, which being the Repreſentative Body of the People, and the collected Wiſdom of the Nation, is leaſt ſubject to error, moſt exempted from paſſion, and moſt free from corruption, their own good both publick and private depending upon the rectitude of their Sanctions. They cannot do any thing that is ill without damage to themſelves and their poſterity; which being all that can be done by human underſtanding, our Lives, Libertys and Propertys are by our Laws directed to depend upon them. SECT. 43.

SECT. XLIII.

Proclamations are not Laws.

OUR Author, according to his uſual method and integrity, lays great weight upon Proclamations, as the ſignifications of the King's pleaſure, which in his opinion is our only Law. But neither Law nor Reaſon openly directing, nor by conſequences inſinuating, that ſuch a Power ſhould be put into an uncertain or ſuſpected hand, we may ſafely deny them to be Laws, or in any ſenſe to have the effect of Laws. Nay, they cannot be ſo much as Significations of his Will; for as he is King, he can have no Will but as the Law directs. If he depart from the Law, he is no longer King, and his Will is nothing to us. Proclamations, at moſt, are but temporary, by the advice of Council, in purſuance of the Law. If they be not ſo, the Subject is no way oblig'd to obey them, and the Counſellors are to be puniſh'd for them. Theſe Laws are either immemorial Cuſtoms, or Statutes. The firſt have their beginning and continuance from the univerſal conſent of the Nation. The latter receive their Authority and Force of Laws from Parliaments, as is frequently expreſt in the Preambles. Theſe are under God the beſt defence of our Lives, Libertys, and Eſtates: they proceed not from the blind, corrupt, and fluctuating humor of a man, but from the mature deliberation of the choiceſt Perſons of the Nation, and ſuch as have the greateſt intereſt in it. Our Anceſtors have always rely'd upon theſe Laws; and 'tis to be hop'd we ſhall not be ſo abandon'd by God, ſo depriv'd of courage and common ſenſe, to ſuffer our ſelves to be cheated of the Inheritance which they have ſo frequently, ſo bravely, and ſo conſtantly defended. Tho Experience has too well taught us, that Parliaments may have their failings, and that the Vices, which are induſtriouſly ſpread among them, may be too prevalent; yet they are the beſt

CHAP. III.

helps we have, and we may much more reaſonably depend upon them, than upon thoſe who propagate that corruption among them for which only they can deſerve to be ſuſpected. We hope they will take care of our concernments, ſince they are as other men ſo ſoon as a Seſſion is ended, and can do nothing to our prejudice that will not equally affect them and their poſterity; beſides the guilt of betraying their Country, which can never be waſh'd off. If ſome ſhould prove falſe to their truſt, 'tis probable that others would continue in their integrity: Or if the baſe arts, which are uſually practis'd by thoſe who endeavor to delude, corrupt, enſlave and ruin Nations, ſhould happen to prevail upon the youngeſt and weakeſt, it may be reaſonably hop'd, that the wiſeſt will ſee the ſnares, and inſtruct their Companions to avoid them. But if all things were ſo put into the hands of one man, that his Proclamations were to be eſteem'd Laws, the Nation would be expos'd to ruin, as ſoon as it ſhould chance to fall into an ill hand. 'Tis in vain to ſay we have a good King, who will not make an ill uſe of his Power; for even the beſt are ſubject to be deceiv'd by Flatterers, and Crown'd Heads are almoſt ever encompaſt by them. The principal Art of a Courtier is to obſerve his Maſter's Paſſions, and to attack him on that ſide where he ſeems to be moſt weak. It would be a ſtrange thing to find a man impregnable in every part; and if he be not, 'tis impoſſible he ſhould reſiſt all the attempts that are made upon him. If his Judgment comes to be prepoſſeſt, he and all that depend on him are loſt. Contradictions, tho never ſo juſt, are then unſafe, and no man will venture upon them, but he who dares ſacrifice himſelf for the publick good. The nature of man is frail, and ſtands in need of aſſiſtance. Vertuous actions that are profitable to the Commonwealth, ought to be made, as far as 'tis poſſible, ſafe, eaſy, and advantageous: and 'tis the utmoſt imprudence to tempt men to be enemys to the Publick, by ſuffering the moſt pernicious actions to be the means of obtaining Honor and Favor, whilſt no man can ſerve his Country, but with the ruin of himſelf and his family.

However in this caſe the Queſtion is not concerning a Perſon: the ſame Counſels are to be follow'd when *Moſes* or *Samuel* is in the Throne, as if *Caligula* had invaded it. Laws ought to aim at perpetuity, but the Vertues of a man dy with him, and very often before him. Thoſe who have deſerv'd the higheſt praiſes for wiſdom and integrity, have frequently left the honors they enjoy'd to fooliſh and vicious Children. If Vertue may in any reſpect be ſaid to outlive the Perſon, it can only be when good men frame ſuch Laws and Conſtitutions as by favoring it preſerve themſelves. This has never bin done otherwiſe, than by balancing the Powers in ſuch a manner, that the corruption which one or a few men might fall into, ſhould not be ſuffer'd to ſpread the contagion to the ruin of the whole. The long continuance of *Lycurgus* his Laws is to be attributed to this: They reſtrain'd the luſts of Kings, and reduc'd thoſe to order who adventur'd to tranſgreſs them: Whereas the whole fabrick muſt have fallen to the ground in a ſhort time, if the firſt that had a fancy to be abſolute, had bin able to effect his deſign. This has bin the fate of all Governments that were made to depend upon the vertue of a man, which never continues long in any family, and when that fails all is loſt. The Nations therefore that are ſo happy to have good Kings, ought to make a right uſe of them, by eſtabliſhing the good that may outlaſt their Lives. Thoſe of them that are good, will readily join in this work, and take care that their Succeſſors may be oblig'd in doing the like, to be equally beneficial

to their own Familys, and the People they govern. If the Rulers of Nations be reſtrain'd, not only the People are by that means ſecur'd from the miſchiefs of their vices and follys, but they themſelves are preſerv'd from the greateſt temptations to ill, and the terrible effects of the vengeance that frequently enſues upon it. An unlimited Prince might be juſtly compar'd to a weak ſhip expos'd to a violent ſtorm, with a vaſt Sail and no Rudder. We have an eminent example of this in the Book of *Eſther*. A wicked Villain having fill'd the ears of a fooliſh King with falſe ſtorys of the *Jews*, he iſſues out a Proclamation for their utter extirpation; and not long after being inform'd of the truth, he gave them leave by another Proclamation to kill whom they pleas'd, which they executed upon ſeventy thouſand men. The Books of *Ezra*, *Nehemiah* and *Daniel*, manifeſtly diſcover the like fluctuation in all the Counſels of *Nabuchodonoſor*, *Cyrus*, *Darius*, and *Artaxerxes*. When good men had credit with them, they favor'd the *Iſraelites*; ſent them back to their own Country; reſtor'd the ſacred Veſſels that had bin taken away; gave them all things neceſſary for the rebuilding of the City, and advanc'd the chief of them to the higheſt employments. But if they fell into ill hands, three juſt men muſt be thrown into the burning Furnace for refuſing to worſhip an Idol; *Daniel* muſt be caſt to the Lions; the holy City eſteem'd rebellious, and thoſe who endeavor'd to rebuild it, enemys to Kings. Such was the ſtate of things, when their Proclamations paſs'd for Laws, and numbers of flattering Slaves were ready to execute their Commands, without examining whether they were juſt or unjuſt, good or bad. The life and death of the beſt men, together with the very being of Nations, was expos'd to chance, and they were either preſerv'd or deſtroy'd according to the humor of that man who ſpoke laſt to the King, or happen'd to have credit with him. If a frantick fancy come into the head of a drunken whore, *Perſepolis* muſt be burnt, and the hand of *Alexander* is ready to execute her will. If a dancing wench pleaſe *Herod*, the moſt venerable of all human Heads muſt be offer'd in a diſh for a ſacrifice to the rage of her impure mother. The nature of man is ſo frail, that whereſoever the word of a ſingle Perſon has had the force of a Law, the innumerable extravagances and miſchiefs it has produc'd have bin ſo notorious, that all Nations who are not ſtupid, ſlaviſh and brutiſh, have always abominated it, and made it their principal care to find out remedys againſt it, by ſo dividing and balancing the Powers of their Government, that one or a few men might not be able to oppreſs and deſtroy thoſe they ought to preſerve and protect. This has always bin as grateful to the beſt and wiſeſt Princes, as neceſſary to the weakeſt and worſt, as I have prov'd already by the examples of *Theopompus*, *Moſes*, and others. Theſe conſiderations have given beginning, growth and continuance to all the mix'd Governments that have bin in the World; and I may juſtly ſay there never was a good one that was not mix'd. If other proofs of their rectitude were wanting, our Author's hatred would be enough to juſtify them. He is ſo bitter an enemy to Mankind, as to be diſpleas'd with nothing but that which tends to their good; and ſo perverſe in his judgment, that we have reaſon to believe that to be good which he moſt abhors. One would think he had taken the model of the Government he propoſes, from the monſtrous Tyranny of *Ceylon*, an Iſland in the *East-Indys*, where the King knows no other Law than his own will. He kills, tears in pieces, empales, or throws to his Elephants whomſoever he pleaſes: No man has any thing that he can call his own: He ſeldom fails to deſtroy thoſe who have

SECT. 43.

Chap. 3.

CHAP. III.

bin employ'd in his domeſtick Service, or publick Offices; and few obtain the favor of being put to death and thrown to the Dogs without torments. His Subjects approach him no otherwiſe, than on their knees, licking the duſt, and dare aſſume to themſelves no other name than that of Dogs, or limbs of Dogs. This is a true pattern of *Filmer*'s *Patriarchical Monarch*. His Majeſty, I ſuppoſe, is ſufficiently exalted; for he dos whatever he pleaſes. The exerciſe of his power is as gentle as can reaſonably be expected from one who has all by the unqueſtionable right of uſurpation; and knows the People will no longer ſuffer him, and the Villains he hires to be the inſtruments of his Cruelty, than they can be kept in ſuch ignorance, weakneſs and baſeneſs, as neither to know how to provide for themſelves, or dare to reſiſt him. We ought to eſteem our ſelves happy, if the like could be eſtabliſh'd among us; and are much oblig'd to our Author for ſo kindly propoſing an expedient that might terminate all our diſputes. Let Proclamations obtain the power of Laws, and the buſineſs is done. They may be ſo ingeniouſly contriev'd, that the antient Laws, which we and our Fathers have highly valu'd, ſhall be aboliſh'd, or made a ſnare to all thoſe that dare remember they are *Engliſhmen*, and are guilty of the unpardonable crime of loving their Country, or have the courage, conduct, and reputation requir'd to defend it. This is the ſum of *Filmer*'s Philoſophy, and this is the Legacy he has left to teſtify his affection to the Nation; which having for a long time lain unregarded, has bin lately brought into the light again, as an introduction of a Popiſh Succeſſor, who is to be eſtabliſh'd, as we ought to believe, for the ſecurity of the Proteſtant Religion, and our *Engliſh* Libertys. Both will undoubtedly flouriſh under a Prince who is made to believe the Kingdom is his Patrimony; that his Will is a Law, and that he has a Power which none may reſiſt. If any man doubt whether he will make a good uſe of it, he may only examin the Hiſtorys of what others in the ſame circumſtances have done in all places where they have had power. The principles of that Religion are ſo full of meekneſs and charity; the Popes have always ſhew'd themſelves ſo gentle towards thoſe who would not ſubmit to their Authority; the Jeſuits, who may be accounted the Soul that give Life to the whole Body of that Faction, are ſo well natur'd, faithful and exact in their Morals, ſo full of innocence, juſtice and truth, that no violence is to be fear'd from ſuch as are govern'd by them. The fatherly care ſhew'd to the Proteſtants of *France*, by the five laſt Kings of the Houſe of *Valois*; the mercy of *Philip* the Second of *Spain* to his Pagan Subjects in the *Weſt-Indys*, and the more hated Proteſtants in the *Netherlands*; the moderation of the Dukes of *Savoy* towards the *Vaudois* in the Marquiſat of *Saluzzo* and the Vallys of *Piedmont*; the gentleneſs and faith of the two *Marys* Queens of *England* and *Scotland*; the kindneſs of the Papiſts to the Proteſtants of *Ireland* in 1641; with what we have reaſon to believe they did and do ſtill intend, if they can accompliſh the ends of their Conſpiracy: In a word, the ſweetneſs and Apoſtolical meekneſs of the Inquiſition, may ſufficiently convince us that nothing is to be fear'd where that Principle reigns. We may ſuffer the word of ſuch a Prince to be a Law, and the People to be made to believe it ought to be ſo, when he is expected. Tho we ſhould wave the Bill of Excluſion, and not only admit him to reign as other Kings have done, but reſign the whole Power into his hands, it would neither bring inconvenience or danger on the preſent King. He can with patience expect that nature ſhould take her courſe, and would neither anticipate nor ſecure his

entrance into the poſſeſſion of the Power, by taking one day from the Life of his Brother. Tho the Papiſts know that like a true Son of their Church, he would prefer the advancement of their Religion before all other conſiderations; and that one ſtab with a Dagger, or a doſe of Poiſon, would put all under his feet, not one man would be found among them to give it. The Aſſaſſins were Mahometans, not Pupils of the honeſt Jeſuits, nor ever employ'd by them. Theſe things being certain, all our concernments would be ſecure, if inſtead of the fooliſh Statutes and antiquated Cuſtoms on which our Anceſtors and we have hitherto doted, we may be troubled with no Law but the King's will, and a Proclamation may be taken for a ſufficient declaretion of it. We ſhall by this means be deliver'd from that *Liberty with a miſchief*, in which our miſtaken Nation ſeems ſo much to delight. This phraſe is ſo new, and ſo peculiar to our Autor, that it deſerves to be written upon his Tomb. We have heard of *Tyranny with a miſchief*, *Slavery and Bondage with a miſchief*; and they have bin denounc'd by God againſt wicked and perverſe Nations, as miſchiefs comprehending all that is moſt to be abhor'd and dreaded in the world. But *Filmer* informs us that Liberty, which all wiſe and good men have in all Ages eſteem'd to be the moſt valuable and glorious privilege of Mankind, is *a miſchief*. If he deſerves credit, *Moſes*, *Joſhua*, *Gideon*, *Sampſon*, and *Samuel*, with others like them, were enemys to their Country, in depriving the People of the advantages they enjoy'd under the paternal care of *Pharaoh*, *Adonibezek*, *Eglon*, *Jabin*, and other Kings of the neighboring Nations, and reſtoring them to that *Liberty with a miſchief* which he had promis'd to them. The *Iſraelites* were happy under the power of Tyrants, whoſe Proclamations were Laws; and they ought to have bin thankful to God for that condition, and not for the deliverances he wrought by the hands of his Servants. Subjection to the will of a man is happineſs, Liberty is a *miſchief*. But this is ſo abominably wicked and deteſtable, that it can deſerve no anſwer.

SECT. 44.

SECT. XLIV.

A People that is not free cannot ſubſtitute Delegats.

HOW full ſoever the Power of any Perſon or People may be, he or they are oblig'd to give only ſo much to their Delegats, as ſeems convenient to themſelves, or conducing to the ends they deſire to attain; but the Delegate can have none except what is confer'd upon him by his Principal. If therefore the Knights, Citizens and Burgeſſes ſent by the People of *England* to ſerve in Parliament have a Power, it muſt be more perfectly and fully in thoſe that ſend them. But (as was prov'd in the laſt Section) Proclamations, and other ſignifications of the King's pleaſure, are not Laws to us. They are to be regulated by the Law, not the Law by them. They are to be conſider'd only ſo far as they are conformable to the Law from which they receive all the ſtrength that is in them, and can confer none upon it. We know no Laws but our own Statutes, and thoſe immemorial Cuſtoms eſtabliſh'd by the conſent of the Nation; which may be, and often are chang'd by us. The Legiſlative Power therefore that is exercis'd by the Parliament, cannot be confer'd by the Writ of Summons, but muſt be eſſentially and radically in the People,

CHAP. III. People, from whom their Delegates and Repreſentatives have all that they have. But, ſays our Author, *They muſt only chuſe, and truſt thoſe whom they chuſe, to do what they liſt; and that is as much Liberty as many of us deſerve for our irregular Elections of Burgeſſes.* This is ingeniouſly concluded: I take what Servant I pleaſe, and when I have taken him I muſt ſuffer him to do what he pleaſes. But from whence ſhould this neceſſity ariſe? Why may not I take one to be my Groom, another to be my Cook, and keep them both to the Offices for which I took them? What Law dos herein reſtrain my Right? And if I am free in my private capacity to regulate my particular affairs according to my own diſcretion, and to allot to each Servant his proper work, why have not I with my Aſſociates the Freemen of *England* the like liberty of directing and limiting the Powers of the Servants we employ in our publick Affairs? Our Author gives us reaſons proportionable to his judgment: *This were liberty with a miſchief; and that of chuſing only is as much as many of us deſerve.* I have already prov'd, that as far as our Hiſtorys reach, we have had no Princes or Magiſtrats, but ſuch as we have made, and they have had no other Power than what we have confer'd upon them: They cannot be the judges of our Merit, who have no Power but what we gave them, thro an opinion they did or might deſerve it: They may diſtribute in parcels to particulars that with which they are entruſted in the groſs. But 'tis impoſſible the Publick ſhould depend abſolutely upon thoſe who are nothing above other men, except what they are made to be, for, and by the Publick. The reſtrictions therefore of the Peoples Liberty muſt be from themſelves, or there can be none.

Nevertheleſs, I believe, that the Powers of every County, City and Borough of *England*, are regulated by the general Law to which they have all conſented, and by which they are all made Members of one Political Body. This obliges them to proceed with their Delegats in a manner different from that which is us'd in the United Netherlands, or in *Switzerland*. Amongſt theſe every Province, City or Canton, making a diſtinct Body independent from any other, and exerciſing the Sovereign Power within it ſelf, looks upon the reſt only as Allies, to whom they are bound only by ſuch Acts as they themſelves have made; and when any new thing not comprehended in them happens to ariſe, they oblige their Delegats to give them an account of it, and retain the power of determining thoſe matters in themſelves. 'Tis not ſo amongſt us: Every County dos not make a diſtinct Body, having in it ſelf a Sovereign Power, but is a Member of that Great Body which comprehends the whole Nation. 'Tis not therefore for *Kent* or *Suſſex*, *Lewis* or *Maidſtone*, but for the whole Nation, that the Members choſen in thoſe places are ſent to ſerve in Parliament: and tho it be fit for them as Friends and Neighbors (ſo far as may be) to hearken to the Opinions of the Electors for the Information of their Judgments, and to the end that what they ſhall ſay may be of more weight, when every one is known not to ſpeak his own thoughts only, but thoſe of a great number of men; yet they are not ſtrictly and properly oblig'd to give account of their Actions to any, unleſs the whole Body of the Nation for which they ſerve, and who are equally concern'd in their Reſolutions, could be aſſembled. This being impracticable, the only puniſhment to which they are ſubject if they betray their Truſt, is ſcorn, infamy, hatred, and an aſſurance of being rejected, when they ſhall again ſeek the ſame Honor. And tho this may ſeem a ſmall matter to thoſe who fear to do ill only

only from a ſenſe of the pains inflicted; yet it is very terrible to men of ingenuous ſpirits, as they are ſuppos'd to be who are accounted fit to be entruſted with ſo great Powers. But why it ſhould be call'd *Liberty with a miſchief* if it were otherwiſe; or how the liberty of particular Societys would be greater, if they might do what they pleas'd, than whilſt they ſend others to act for them, ſuch wiſe men only as *Filmer* can tell us. For as no man, or number of men, can give a Power which he or they have not, the *Achaians*, *Etolians*, *Latins*, *Samnites* and *Tuſcans*, who tranſacted all things relating to their Aſſociations by Delegates; and the *Athenians*, *Carthaginians* and *Romans*, who kept the power of the State in themſelves, were all equally free. And in our days the United Provinces of the *Netherlands*, the *Switzers* and *Griſons*, who are of the firſt ſort, and the *Venetians*, *Genoeſes*, and *Luccheſes*, who are of the other, are ſo alſo. All men that have any degree of common ſenſe, plainly ſee, that the Liberty of thoſe who act in their own perſons, and of thoſe who ſend Delegates, is perfectly the ſame, and the exerciſe is, and can only be chang'd by their conſent. SECT. 44.

But whatever the Law or Cuſtom of *England* be in this point, it cannot concern our queſtion. The general propoſition concerning a Patriarchical Power cannot be prov'd by a ſingle example. If there be a general Power every where, forbidding Nations to give inſtructions to their Delegates, they can do it no where. If there be no ſuch thing, every People may do it, unleſs they have depriv'd themſelves of their right, all being born under the ſame condition. 'Tis to no purpoſe to ſay that the Nations before mention'd had not Kings, and therefore might act as they did. For if the general Theſis be true, they muſt have Kings; and if it be not, none are oblig'd to have them, unleſs they think fit, and the Kings they make are their Creatures. But many of theſe Nations had either Kings, or other Magiſtrats in power like to them. The Provinces of the *Netherlands* had Dukes, Earls, or Marqueſſes: *Genoa* and *Venice* have Dukes. If any on account of the narrowneſs of their Territorys have abſtain'd from the Name, it dos not alter the caſe; for our diſpute is not concerning the Name, but the Right. If that one Man, who is in the principal Magiſtracy of every Nation, muſt be reputed the Father of that People, and has a Power which may not be limited by any Law, it imports not what he is call'd. But if in ſmall Territorys he may be limited by Laws, he may be ſo alſo in the greateſt. The leaſt of men is a man as well as a Giant: And thoſe in the *Weſt-Indys* who have not above twenty or thirty Subjects able to bear Arms, are Kings as well as *Xerxes*. Every Nation may divide it ſelf into ſmall parcels as ſome have done, by the ſame Law they have reſtrain'd or aboliſh'd their Kings, join'd to one another, or taken their hazard of ſubſiſting by themſelves; acted by delegation, or retaining the Power in their own perſons; given finite or indefinite Powers; reſerv'd to themſelves a power of puniſhing thoſe who ſhould depart from their duty, or refer'd it to their General Aſſemblys. And that Liberty, for which we contend as the Gift of God and Nature, remains equally to all.

If men who delight in cavilling ſhould ſay, that great Kingdoms are not to be regulated by the Examples of ſmall States, I deſire to know when it was, that God ordain'd great Nations ſhould be Slaves, and depriv'd of all right to diſpoſe matters relating to their Government; whilſt he left to ſuch as had, or ſhould divide themſelves into ſmall parcels, a right of making ſuch Conſtitutions as were moſt convenient for them.

When

CHAP. III. When this is reſolv'd, we ought to be inform'd, what extent of Territory is requir'd to deſerve the name of a great Kingdom. *Spain* and *France* are eſteem'd great, and yet the Deputys or *Procuradores* of the ſeveral parts of *Caſtille* did in the *Cortez* held at *Madrid*, in the beginning of *Charles* the fifth's reign, excuſe themſelves from giving the ſupplys he deſir'd, becauſe they had receiv'd no orders in that particular from the Towns that ſent them; and afterwards receiving expreſs orders not to do it, they gave his Majeſty a flat denial. The like was frequently done during the reigns of that great Prince, and of his Son *Philip* the ſecond. And generally thoſe *Procuradores* never granted any thing of importance to either of them, without particular Orders from their Principals. The ſame way was taken in *France*, as long as there were any General Aſſemblys of Eſtates; and if it dos not ſtill continue, 'tis becauſe there are none. For no man who underſtood the Affairs of that Kingdom, did ever deny, that the Deputys were oblig'd to follow the Orders of thoſe who ſent them. And perhaps, if men would examin by what means they came to be aboliſh'd, they might find, that the Cardinals *de Richelieu* and *Mazarin*, with other Miniſters who have accompliſh'd that work, were acted by ſome other principle than that of Juſtice, or the eſtabliſhment of the Laws of God and Nature. In the General Aſſembly of Eſtates held at *Blois* in the time of *Henry* the third, *Bodin* then Deputy for the third Eſtate of *Vermandois*, by their particular Order, propos'd ſo many things as took up a great part of their time. Other Deputys alledg'd no other reaſon for many things ſaid and done by them, highly contrary to the King's will, than that they were commanded ſo to do by their Superiors. Theſe General Aſſemblys being laid aſide, the ſame cuſtom is ſtill us'd in the leſſer Aſſemblys of Eſtates in *Languedoc* and *Britany*. The Deputys cannot without the infamy of betraying their Truſt, and fear of puniſhment, recede from the Orders given by their Principals; and yet we do not find that *Liberty with a miſchief* is much more predominant in *France* than amongſt us. The ſame method is every day practis'd in the Diets of *Germany*. The Princes and great Lords, who have their places in their own right, may do what they pleaſe; but the Deputys of the Citys muſt follow ſuch Orders as they receive. The Hiſtorys of *Denmark*, *Sweden*, *Poland* and *Bohemia*, teſtify the ſame thing: and if this *Liberty with a miſchief* dos not ſtill continue intire in all thoſe places, it has bin diminiſh'd by ſuch means as ſute better with the manners of Pirats, than the Laws of God and Nature. If *England* therefore dos not ſtill enjoy the ſame, we muſt have bin depriv'd of it either by ſuch unjuſtifiable means, or by our own conſent. But thanks be to God, we know no People who have a better right to Liberty, or have better defended it than our own Nation. And if we do not degenerate from the Vertue of our Anceſtors, we may hope to tranſmit it intire to our Poſterity. We always may, and often do give Inſtructions to our Delegates; but the leſs we ſetter them, the more we manifeſt our own Rights: for thoſe who have only a limited Power, muſt limit that which they give; but they that can give an unlimited Power muſt neceſſarily have it in themſelves. The great Treaſurer *Burleigh* ſaid, the Parliament could do any thing but turn a Man into a Woman. Sir *Thomas Moor*, when *Rich* Solicitor to K. *Henry* the *8th* ask'd him, if the Parliament might not make *R. Rich* King, ſaid, that was *caſus levis*, taking it for granted that they might make or unmake whom they pleas'd. The firſt part of this, which includes the other, is aſſerted by the Statute of the

Vida de Carlos 5° de Sandoval.

Hiſt. Thuan.

13*th* of Q. *Elizabeth*, denouncing the moſt grievous puniſhments againſt all ſuch as ſhould dare to contradict it. But if it be in the Parliament, it muſt be in thoſe who give to Parliament-men the powers by which they act; for before they are choſen they have none, and can never have any if thoſe that ſend them had it not in themſelves. They cannot receive it from the Magiſtrate, for that power which he has is deriv'd from the ſame ſpring. The power of making and unmaking him cannot be from himſelf; for he that is not, can do nothing, and when he is made can have no other power than is confer'd upon him by thoſe that make him. Beſides, he who departs from his duty deſires to avoid the puniſhment; the power therefore of puniſhing him is not from himſelf. It cannot be from the Houſe of Peers as it is conſtituted, for they act for themſelves, and are choſen by Kings: and 'tis abſurd to think that Kings, who generally abhor all reſtriction of their Power, ſhould give that to others by which they might be unmade. If one or more Princes relying upon their own Vertue and Reſolutions to do good, had given ſuch a power againſt themſelves, as *Trajan* did, when he commanded the Prefect to uſe the Sword for him if he govern'd well, and againſt him if he govern'd ill, it would ſoon have bin reſcinded by their Succeſſors. If our *Edward* the firſt had made ſuch a Law, his leud Son would have aboliſh'd it, before he would have ſuffer'd himſelf to be impriſon'd and depos'd by it. He would never have acknowledg'd his unworthineſs to reign, if he had bin ty'd to no other Law than his own will, for he could not tranſgreſs that; nor have own'd the mercy of the Parliament in ſparing his Life, if they had acted only by a power which he had confer'd upon them. This Power muſt therefore be in thoſe who act by a delegated Power, and none can give it to their Delegates but they who have it in themſelves. The moſt certain teſtimony that can be given of their unlimited Power is, that they rely upon the Wiſdom and Fidelity of their Deputys, ſo as to lay no reſtrictions upon them: they may do what they pleaſe, if they take care *ne quid detrimenti Reſpublica accipiat, that the Commonwealth receives no detriment.* This is a Commiſſion fit to be granted by wiſe and good men, to thoſe they chuſe thro an opinion that they are ſo alſo, and that they cannot bring any prejudice upon the Nation, that will not fall upon themſelves and their poſterity. This is alſo fit to be receiv'd by thoſe, who ſeeking nothing but that which is juſt in it ſelf, and profitable to their Country, cannot foreſee what will be propos'd when they are all met together; much leſs reſolve how to vote till they hear the reaſons on both ſides. The Electors muſt neceſſarily be in the ſame ignorance; and that Law which ſhould oblige them to give particular Orders to their Knights and Burgeſſes in relation to every Vote, would make the deciſion of the moſt important Affairs to depend upon the judgment of thoſe who know nothing of the matters in queſtion, and by that means caſt the Nation into the utmoſt danger of the moſt inextricable confuſion. This can never be the intention of that Law which is *Sanctio recta*, and ſeeks only the good of thoſe that live under it. The foreſight therefore of ſuch a miſchief can never impair the Libertys of the Nation, but eſtabliſh them.

SECT. 44.

SECT. XLV.

The Legiſlative Power is always Arbitrary, and not to be truſted in the hands of any who are not bound to obey the Laws they make.

IF it be objected that I am a defender of Arbitrary Powers, I confeſs I cannot comprehend how any Society can be eſtabliſh'd or ſubſiſt without them; for the eſtabliſhment of Government is an arbitrary Act, wholly depending upon the will of man. The particular Forms and Conſtitutions, the whole Series of the Magiſtracy, together with the meaſure of Power given to every one, and the Rules by which they are to exerciſe their Charge, are ſo alſo. *Magna Charta*, which comprehends our antient Laws, and all the ſubſequent Statutes, were not ſent from Heaven, but made according to the will of men. If no men could have a Power of making Laws, none could ever have bin made; for all that are or have bin in the World, except thoſe given by God to the *Iſraelites*, were made by them; that is, they have exercis'd an Arbitrary Power in making that to be Law which was not, or annulling that which was. The various Laws and Governments, that are or have bin in ſeveral Ages and Places, are the product of various opinions in thoſe who had the power of making them. This muſt neceſſarily be, unleſs a general Rule be ſet to all; for the Judgments of men will vary if they are left to their liberty, and the variety that is found among them, ſhews they are ſubject to no Rule but that of their own Reaſon, by which they ſee what is fit to be embrac'd or avoided, according to the ſeveral circumſtances under which they live. The Authority that judges of theſe circumſtances is arbitrary, and the Legiſlators ſhew themſelves to be more or leſs wiſe and good, as they do rightly or not rightly exerciſe this Power. The difference therefore between good and ill Governments is not, that thoſe of one ſort have an Arbitrary Power which the others have not, for they all have it; but that thoſe which are well conſtituted, place this Power ſo as it may be beneficial to the People, and ſet ſuch Rules as are hardly to be tranſgreſt; whilſt thoſe of the other ſort fail in one or both theſe points. Some alſo thro want of courage, fortune, or ſtrength, may have bin oppreſt by the violence of Strangers, or ſuffer'd a corrupt Party to riſe up within themſelves, and by force or fraud to uſurp a Power of impoſing what they pleas'd. Others being ſottiſh, cowardly and baſe, have ſo far err'd in the Foundations, as to give up themſelves to the will of one or few men, who turning all to their own profit or pleaſure, have bin juſt in nothing but in uſing ſuch a People like beaſts. Some have plac'd weak defences againſt the luſts of thoſe they have advanc'd to the higheſt places, and given them opportunitys of arrogating more power to themſelves than the Law allows. Where any of theſe errors are committed, the Government may be eaſy for a while, or at leaſt tolerable, whilſt it continues uncorrupted, but it cannot be laſting. When the Law may be eaſily or ſafely overthrown, it will be attempted. Whatever vertue may be in the firſt Magiſtrats, many years will not paſs before they come to be corrupted; and their Succeſſors deflecting from their integrity, will ſeize upon the ill-guarded prey. They will then not only govern by will, but by that irregular will, which turns the Law, that was made for the publick good,

good, to the private advantage of one or few men. 'Tis not my intention to enumerate the ſeveral ways that have bin taken to effect this; or to ſhew what Governments have deflected from the right, and how far. But I think I may juſtly ſay, that an Arbitrary Power was never well plac'd in any men and their Succeſſors, who were not oblig'd to obey the Laws they ſhould make. This was well underſtood by our *Saxon* Anceſtors; They made Laws in their Aſſemblys and Councils of the Nation; but all thoſe who propos'd or aſſented to thoſe Laws, as ſoon as the Aſſembly was diſſolv'd, were comprehended under the power of them as well as other men. They could do nothing to the prejudice of the Nation, that would not be as hurtful to thoſe who were preſent and their poſterity, as to thoſe who by many accidents might be abſent. The *Normans* enter'd into, and continu'd in the ſame path. Our Parliaments at this day are in the ſame condition. They may make prejudicial Wars, ignominious Treatys, and unjuſt Laws: yet when the Seſſion is ended, they muſt bear the burden as much as others; and when they dy, *the teeth of their Children will be ſet an edg with the ſour Grapes they have eaten.* But 'tis hard to delude or corrupt ſo many; Men do not in matters of the higheſt importance yield to ſlight temptations. No man ſerves the Devil for nothing: Small wages will not content thoſe who expoſe themſelves to perpetual infamy, and the hatred of a Nation for betraying their Country. Our Kings had not wherewithal to corrupt many till theſe laſt twenty years, and the treachery of a few was not enough to paſs a Law. The union of many was not eaſily wrought, and there was nothing to tempt them to endeavour it; for they could make little advantage during the Seſſion, and were to be loſt in the maſs of the People, and prejudic'd by their own Laws, as ſoon as it was ended. They could not in a ſhort time reconcile their various intereſts or paſſions, ſo as to combine together againſt the Publick; and the former Kings never went about it. We are beholden to *H-de*, *Cl-ff-rd* and *D-nby*, for all that has bin done of that kind. They found a Parliament full of leud young men choſen by a furious People in ſpite to the Puritans, whoſe ſeverity had diſtaſted them. The weakeſt of all Miniſters had wit enough to underſtand that ſuch as theſe might be eaſily deluded, corrupted, or brib'd. Some were fond of their Seats in Parliament, and delighted to domineer over their Neighbors by continuing in them: Others prefer'd the cajolerys of the Court before the honor of performing their duty to the Country that employ'd them. Some ſought to relieve their ruin'd Fortunes, and were moſt forward to give the King a vaſt Revenue, that from thence they might receive Penſions: others were glad of a temporary Protection againſt their Creditors. Many knew not what they did when they annul'd the Triennial Act, voted the Militia to be in the King, gave him the Exciſe, Cuſtoms and Chimny-mony, made the Act for Corporations, by which the greateſt part of the Nation was brought under the power of the worſt men in it; drunk or ſober paſs'd the Five-mile Act, and that for Uniformity in the Church. This embolden'd the Court to think of making Parliaments to be the inſtruments of our Slavery, which had in all Ages paſt bin the firmeſt pillars of our Liberty. There might have bin perhaps a poſſibility of preventing this pernicious miſchief in the Conſtitution of our Government. But our brave Anteſtors could never think their Poſterity would degenerate into ſuch baſeneſs to ſell themſelves and their Country: yet how great ſoever the danger may be, 'tis leſs than to put all into the hands of

SECT. 45.

CHAP. III.

one Man and his Miniſters: the hazard of being ruin'd by thoſe who muſt periſh with us, is not ſo much to be fear'd, as by one who may enrich and ſtrengthen himſelf by our deſtruction. 'Tis better to depend upon thoſe who are under a poſſibility of being again corrupted, than upon one who applys himſelf to corrupt them, becauſe he cannot otherwiſe accompliſh his deſigns. It were to be wiſh'd that our ſecurity were more certain; but this being, under God, the beſt Anchor we have, it deſerves to be preſerv'd with all care, till one of a more unqueſtionable ſtrength be fram'd by the conſent of the Nation.

SECT. XLVI.

The coercive power of the Law proceeds from the Authority of Parliament.

HAVING prov'd that Proclamations are not Laws, and that the Legiſlative Power, which is arbitrary, is truſted only in the hands of thoſe who are bound to obey the Laws that are made, 'tis not hard to diſcover what it is that gives the power of Law to the Sanctions under which we live. Our Author tells us, That *all Statutes or Laws are made properly by the King alone, at the Rogation of the People, as his Majeſty King* James *of happy Memory affirms in his true Law of Free Monarchy*; *and as* Hooker *teaches us, That Laws do not take their conſtraining power from the quality of ſuch as deviſe them, but from the power that gives them the ſtrength of Law.* But if the Rogation of the People be neceſſary, that cannot be a Law which proceeds not from their Rogation: the power therefore is not alone in the King; for a moſt important part is confeſt to be in the People. And as none could be in them, if our Author's Propoſition, or the Principles upon which it is grounded, were true, the acknowledgment of ſuch a part to be in the People ſhews them to be falſe. For if the King had all in himſelf, none could participate with him: if any do participate, he has not all; and 'tis from that Law by which they do participate, that we are to know what part is left to him. The preambles of moſt Acts of Parliament manifeſt this by the words, *Be it enacted by the Lords Spiritual and Temporal, and Commons in Parliament aſſembled, and by Authority of the ſame.* But *King* James, ſays *Filmer*, *in his Law of Free Monarchy affirms the contrary*; and it may be ſo, yet that is nothing to us. No man doubts that he deſir'd it might be ſo in *England*: but it dos not from thence appear that it is ſo. The Law of a Free Monarchy is nothing to us; for that Monarchy is not free which is regulated by a Law not to be broken without the guilt of Perjury, as he himſelf* confeſt in relation to ours. As to the words cited from *Hooker*, I can find no hurt in them. To draw up the form of a good Law, is a matter of invention and jugdment, but it receives the force of a Law from the Power that enacts it. We have no other reaſon for the payment of Exciſe or Cuſtoms, than that the Parliament has granted thoſe Revenues to the King to defray the publick Charges. Whatever therefore King *James* was pleas'd to ſay in his Books, or in thoſe written for him, we do not ſo much as know that the killing of a King is Treaſon, or to be puniſh'd with death, otherwiſe than as it is enacted by Parliament; and it was not always ſo: for in the time

* *Speech in Star-Chamber, 1616.*

of

of ‖ *Ethelſtan*, the Eſtimates of Lives were agreed in Parliament, and that of a King valu'd at thirty thouſand *Thrymſa*. And if that Law had not bin alter'd by the Parliament, it muſt have bin in force at this day. It had bin in vain for a King to ſay he would have it otherwiſe; for he is not created to make Laws, but to govern according to ſuch as are made, and ſworn to aſſent to † *ſuch as ſhall be propos'd*. He who thinks the Crown not worth accepting on theſe conditions, may refuſe it. The words *Le Roy le veut*, are only a pattern of the *French* faſhions, upon which ſome Kings have laid greſs ſtreſs, and would no doubt have bin glad to introduce *Car tel eſt notre plaiſir*; but that may prove a difficult matter. Nay in *France* it ſelf, where that Stile, and all the ranting expreſſions that pleaſe the vaineſt of men are in mode, no Edict has the power of a Law, till it be regiſter'd in Parliament. This is not a mere ceremony, as ſome pretend, but all that is eſſential to a Law. Nothing has bin more common than for thoſe Parliaments to refuſe Edicts ſent to them by the King. When *John Chaſtel* had, at the inſtigation of the Jeſuits, ſtab'd *Henry* the Fourth in the Mouth, and that Order had deſign'd or executed many other execrable crimes, they were baniſh'd out of the Kingdom by an Arreſt of the Parliament of *Paris*. Some other Parliaments regiſter'd the ſame; but thoſe of *Tholouſe* and *Bordeaux* abſolutely refus'd, and notwithſtanding all the King could do, the Jeſuits continu'd at *Tournon* and many other places within their Precincts, till the Arreſt was revok'd. Theſe proceedings are ſo diſpleaſing to the Court, that the moſt violent ways have bin often us'd to aboliſh them. About the year 1650, *Seguier* then Chancellor of *France* was ſent with a great number of Soldiers to oblige the Parliament of *Paris* to paſs ſome Edicts upon which they had heſitated; but he was ſo far from accompliſhing his deſign, that the People roſe againſt him, and he thought himſelf happy that he eſcap'd with his Life. If the Parliaments do not in all parts of the Kingdom continue in the Liberty of approving or rejecting all Edicts, the Law is not alter'd, but oppreſt by the violence of the Sword: And the Prince of *Condé*, who was principally employ'd to do that work, may, I ſuppoſe, have had leiſure to reflect on thoſe Actions, and cannot but find reaſon to conclude, that his excellent valor and conduct was us'd in a moſt noble Exploit, equally beneficial to his Country and himſelf. However, thoſe who are skill'd in the Laws of that Nation do ſtill affirm, that all publick Acts which are not duly examin'd and regiſter'd, are void in themſelves, and can be of no force longer than the miſerable People lies under the violence of Oppreſſion; which is all that could reaſonably be ſaid, if a Pirat had the ſame power over them. But whether the *French* have willingly offer'd their ears to be bor'd, or have bin ſubdu'd by force, it concerns us not. Our Libertys depend not upon their will, vertue, or fortune: how wretched and ſhameful ſoever their Slavery may be, the evil is only to themſelves. We are to conſider no human Laws but our own; and if we have the ſpirit of our Anceſtors we ſhall maintain them, and dy as free as they left us. *Le Roy le veut*, tho written in great Letters, or pronounc'd in the moſt tragical manner, can ſignify no more than that the King in performance of his Oath dos aſſent to ſuch Laws as the Lords and Commons have agreed. Without prejudice to themſelves and their Libertys, a People may ſuffer the King to adviſe with his Council upon what they propoſe.

SECT. 46.

‖ Leg. Æthelſtani, fol. 71.

Mem. de L. R. F.

† Quas vulgus elegerit.

Two

CHAP. III. Two eyes ſee more than one, and human judgment is ſubject to errors. Tho the Parliament conſiſts of the moſt eminent men of the Nation, yet when they intend good, they may be miſtaken. They may ſafely put a check upon themſelves, that they may farther conſider the moſt important matters, and correct the errors that may have bin committed, if the King's Council do diſcover them: but he can ſpeak only by the advice of his Council; and every man of them is with his head to anſwer for the advice he gives. If the Parliament has not bin ſatisfy'd with the reaſons given againſt any Law that they offer'd, it has frequently paſs'd; and if they have bin ſatisfy'd, 'twas not the King, but they that laid it aſide. He that is of another opinion, may try whether *Le Roy le veut* can give the force of a Law to any thing conceiv'd by the King, his Council, or any other than the Parliament. But if no wiſe man will affirm that he can do it, or deny that by his Oath he is oblig'd to aſſent to thoſe that come from them, he can neither have the Legiſlative power in himſelf, nor any other part in it than what is formal, and neceſſarily to be perform'd by him, as the Law preſcribes.

I know not what our Author means by ſaying, *Le Roy le veut is the interpretative phraſe pronounc'd at the paſſing of every Act of Parliament*: For if there be difficulty in any of them, thoſe words do no way remove it. But the following part of the paragraph better deſerves to be obſerv'd. *It was*, ſays he, *the antient cuſtom for a long time until the days of* Henry *the Fifth, for the Kings when any Bill was brought to them that had paſs'd both Houſes, to take and pick out what they lik'd not; and ſo much as they choſe was enacted as a Law: But the cuſtom of the latter Kings has bin ſo gracious, as to allow always of the intire Bill as it paſs'd both Houſes.* He judiciouſly obſerves when our Kings began to be gracious, and we to be free. That King (excepting the perſecution for Religion in his time, which is rather to be imputed to the ignorance of that Age, than to any evil in his own nature) govern'd well; and as all Princes who have bin vertuous and brave have always deſir'd to preſerve their Subjects Liberty, which they knew to be the mother and nurſe of their Valor, fitting them for great and generous Enterprizes, his care was to pleaſe them, and to raiſe their Spirits. But about the ſame time, thoſe deteſtable Arts by which the mix'd Monarchys in this part of the world have bin every where terribly ſhaken, and in many places totally overthrown, began to be practis'd. *Charles* the Seventh of *France*, under pretence of carrying on a War againſt him and his Son, took upon him to raiſe Mony by his own Authority, and we know how well that method has bin purſu'd. The miſchievous ſagacity of his Son *Lewis* the *11th*, which is now call'd *King-Craft*, was wholly exerted in the ſubverſion of the Laws of *France*, and the Nobility that ſupported them. His Succeſſors, except only *Lewis* the *12th*, follow'd his example; and in other Nations, *Ferdinand* of *Arragon*, *James* the Third of *Scotland*, and *Henry* the Seventh of *England*, were thought to imitate him the moſt. Tho we have little reaſon to commend all the Princes that preceded *Henry* the Fifth; yet I am inclin'd to date the general impairing of our Government from the death of that King, and his valiant Brothers. His weak Son became a prey to a furious *French* Woman, who brought the Maxims of her own Country into ours, and advanc'd the worſt of Villains to govern according to them. Theſe meaſures were purſu'd by *Edward* the *4th*, whoſe wants contracted by prodigality and debauchery, were to be ſupply'd by fraud and rapine. The ambition, cruelty and perfidiouſneſs of *Richard* the *3d*; the covetouſneſs and malicious ſubtilty of *Henry* the *7th*; the violent luſt, rage and pride of

Henry

Henry the 8*th*, and the bigotted fury of Q. *Mary*, inſtigated by the craft and malice of *Spain*, perſuaded me to believe that the *Engliſh* Liberty did not receive birth or growth from the favor and goodneſs of their gracious Princes. But it ſeems all this is miſtaken; *Henry* the 6*th* was wiſe, valiant, and no way guided by his Wife; *Edward* the fourth continent, ſober, and contented with what the Nation gave him; *Richard* the third mild, gentle and faithful; *Henry* the 7*th* ſincere, and ſatisfy'd with his own; *Henry* the 8*th* humble, temperate and juſt; and Queen *Mary* a friend to our Country and Religion. No leſs praiſes ſure can be due to thoſe who were ſo gracious to recede from their own right of picking what they pleas'd out of our Laws, and to leave them intirely to us as they paſs'd both Houſes. We are beholden to our Author for the diſcovery of theſe myſterys: but tho he ſeems to have taken an Oath like that of the Gypſys when they enter into that vertuous Society, never to ſpeak one word of truth, he is not ſo ſubtle in concealing his Lies. All Kings were truſted with the publication of the Laws, but all Kings did not falſify them. Such as were not wicked and vicious, or ſo weak as to be made ſubſervient to the malice of their Miniſters and Flatterers, could never be drawn into the guilt of ſo infamous a cheat, directly contrary to the Oath of their Coronation. They ſwear to paſs ſuch *Laws* * *as the People chuſe*; but if we will believe our Author, they might have pick'd out whatever they pleas'd, and falſly impos'd upon the Nation, as a Law made by the Lords and Commons, that which they had model'd according to their own will, and made to be different from, or contrary to the intention of the Parliament. The King's part in this fraud (of which he boaſts) was little more than might have bin done by the Speaker or his Clerks. They might have falſify'd an Act as well as the King, tho they could not ſo well preſerve themſelves from puniſhment. 'Tis no wonder if for a while no ſtop was put to ſuch an abominable Cuſtom. 'Twas hard to think a King would be guilty of a fraud, that were infamous in a Slave: But that prov'd to be a ſmall ſecurity, when the worſt of Slaves came to govern them. Nevertheleſs 'tis probable they proceeded cautiouſly: the firſt alterations were perhaps innocent, or, it may be, for the beſt. But when they had once found out the way, they ſtuck at nothing that ſeem'd for their purpoſe. This was like the plague of Leproſy, that could not be cur'd; the houſe infected was to be demoliſh'd; the poiſonous plant muſt be torn up by the root; the truſt that had bin broken was to be aboliſh'd; they who had perverted or fruſtrated the Law, were no longer to be ſuffer'd to make the leaſt alteration; and that brave Prince readily join'd with his People to extinguiſh the miſchievous abuſe that had bin introduc'd by ſome of his worthleſs Predeceſſors. The worſt and baſeſt of them had continual diſputes with their Parliaments, and thought that whatever they could detract from the Liberty of the Nation, would ſerve to advance their Prerogative. They delighted in frauds, and would have no other Miniſters but ſuch as would be the inſtruments of them. Since their Word could not be made to paſs for a Law, they indeavor'd to impoſe their own or their Servants inventions as Acts of Parliament, upon the deluded people, and to make the beſt of them ſubſervient to their corrupt Ends and pernicious Counſels. This, if it had continu'd, might have overthrown all our Rights, and depriv'd us of all that men can call good in the world. But the Providence of God furniſh'd our Anceſtors with an

Sect. 46.

* Quas vulgus elegerit.

opportunity

CHAP. III. opportunity of providing againſt ſo great, ſo univerſal a miſchief. They had a wiſe and valiant Prince, who ſcorn'd to encroach upon the Liberty's of his Subjects, and abhor'd the deteſtable Arts by which they had bin impair'd. He eſteem'd their courage, ſtrength, and love, to be his greateſt Advantage, Riches and Glory. He aim'd at the conqueſt of *France*, which was only to be effected by the bravery of a free and well ſatisfy'd People. Slaves will always be cowards, and enemys to their Maſter: By bringing his Subjects into that condition, he muſt infallibly have ruin'd his own deſigns, and made them unfit to fight either for him or themſelves. He deſir'd not only that his People ſhould be free during his time, but that his Succeſſors ſhould not be able by oblique and fraudulent ways to enſlave them. If it be a reproach to us that Women have reign'd over us, 'tis much more to the Princes that ſucceeded our *Henry*, that none of them did ſo much imitate him in his Government as Queen *Elizabeth*. She did not go about to mangle Acts of Parliament, and to pick out what might ſerve her turn, but frequently paſs'd forty or fifty in a Seſſion, without reading one of them. She knew that ſhe did not reign for her ſelf, but for her People; that what was good for them, was either good for her, or that her good ought not to come into competition with that of the whole Nation; and that ſhe was by Oath oblig'd to paſs ſuch Laws as were preſented to her on their behalf. This not only ſhews that there is no ſuch thing as a Legiſlative Power plac'd in Kings by the Laws of God and Nature, but that Nations have it in themſelves. It was not by Law nor by Right, but by Uſurpation, Fraud and Perjury, that ſome Kings took upon them to pick what they pleas'd out of the publick Acts. *Henry* the fifth did not grant us the right of making our own Laws; but with his approbation we aboliſh'd a deteſtable abuſe that might have prov'd fatal to us. And if we examin our Hiſtory we ſhall find, that every good and generous Prince has ſought to eſtabliſh our Liberty's, as much as the moſt baſe and wicked to infringe them. *

THE END.

The COPY of a PAPER Deliver'd to the SHERIFFS, Upon the Scaffold on *Tower-hill*, On Friday *Decemb.* 7. 1683. BY Algernon Sidney Esq; Immediately before his Death.

Men, Brethren, and Fathers; Friends, Countrymen, and Strangers:

IT May be expected that I should now say some great matters unto you; but the Rigor of the Season, and the Infirmitys of my Age, increas'd by a close Imprisonment of above five Months, do not permit me.

Moreover, we live in an Age that makes Truth pass for Treason: I dare not say any thing contrary unto it, and the Ears of those that are about me will probably be found too tender to hear it. My Trial and Condemnation doth sufficiently evidence this.

West, *Rumsey*, and *Keyling*, who were brought to prove the Plot, said no more of me, than that they knew me not; and some others equally unknown to me, had us'd my Name, and that of some others, to give a little Reputation to their Designs. The Lord *Howard* is too infamous by his Life, and the many Perjurys not to be deny'd, or rather sworn by himself,

ſelf, to deſerve mention; and being a ſingle Witneſs would be of no value, tho he had been of unblemiſh'd Credit, or had not ſeen and confeſs'd that the Crimes committed by him would be pardon'd only for committing more; and even the Pardon promis'd could not be obtain'd till the drudgery of Swearing was over.

This being laid aſide, the whole matter is reduc'd to the Papers ſaid to be found in my Cloſet by the King's Officers, without any other Proof of their being written by me, than what is taken from ſuppoſitions upon the ſimilitude of an Hand that is eaſily counterfeited, and which hath been lately declar'd in the Lady *Car*'s Caſe to be no lawful Evidence in Criminal Cauſes.

But if I had been ſeen to write them, the matter would not be much alter'd. They plainly appear to relate to a large Treatiſe written long ſince in Anſwer to *Filmer*'s Book, which by all Intelligent Men is thought to be grounded upon wicked Principles, equally pernicious to Magiſtrates and People.

If he might publiſh to the World his Opinion, That all Men are born under a neceſſity deriv'd from the Laws of God and Nature, to ſubmit to an Abſolute Kingly Government, which could be reſtrain'd by no Law, or Oath; and that he that has the Power, whether he came to it by Creation, Election, Inheritance, Uſurpation, or any other way, had the Right; and none muſt oppoſe his Will, but the Perſons and Eſtates of his Subjects muſt be indiſpenſably ſubject unto it; I know not why I might not have publiſh'd my Opinion to the contrary, without the breach of any Law I have yet known.

I might as freely as he, publickly have declar'd my Thought, and the reaſons upon which they were grounded, and I perſuaded to believe, That God had left Nations to the Liberty of ſetting up ſuch Governments as beſt pleas'd themſelves.

That Magiſtrates were ſet up for the good of Nations, not Nations for the honour or glory of Magiſtrates.

That the Right and Power of Magiſtrates in every Country, was that which the Laws of that Country made it to be.

That thoſe Laws were to be obſerv'd, and the Oaths taken by them, having the force of a Contract between Magiſtrate and People, could not be violated without danger of diſſolving the whole Fabrick.

That Uſurpation could give no Right, and the moſt dangerous of all Enemys to Kings were they, who raiſing their Power to an exorbitant height, allow'd to Uſurpers all the Rights belonging unto it.

That ſuch Uſurpations being ſeldom compaſs'd without the Slaughter of the Reigning Perſon, or Family, the worſt of all Villanys was thereby rewarded with the moſt glorious Privileges.

That if ſuch Doctrines were receiv'd, they would ſtir up Men to the Deſtruction of Princes with more Violence than all the Paſſions that have hitherto rag'd in the Hearts of the moſt Unruly.

That none could be ſafe, if ſuch a Reward were propos'd to any that could deſtroy them.

That few would be ſo gentle as to ſpare even the Beſt, if by their deſtruction a wild Uſurper could become God's Anointed, and by the moſt execrable Wickedneſs inveſt himſelf with that Divine Character.

This is the ſcope of the whole Treatiſe; the Writer gives ſuch Reaſons as at preſent did occur unto him, to prove it. This ſeems to agree with

with the Doctrines of the most Reverenc'd Authors of all Times, Nations and Religions. The best and wiselt of Kings have ever acknowledg'd it. The present King of *France* has declar'd that Kings have that happy want of Power, that they can do nothing contrary to the Laws of their Country, and grounds his Quarrel with the King of *Spain*, *Anno* 1667. upon that Principle. King *James* in his Speech to the Parliament *Anno* 1603. doth in the highest degree assert it: The Scripture seems to declare it. If nevertheless the Writer was mistaken, he might have been refuted by Law, Reason and Scripture; and no Man for such matters was ever otherwise punish'd, than by being made to see his Error; and it has not (as I think) been ever known that they had been refer'd to the Judgment of a Jury, compos'd of Men utterly unable to comprehend them.

But there was little of this in my Case; the extravagance of my Prosecutors goes higher: the above-mention'd Treatise was never finish'd, nor could be in many years, and most probably would never have been. So much as is of it was written long since, never review'd nor shewn to any Man; and the fiftieth part of it was not produc'd, and not the tenth of that offer'd to be read. That which was never known to those who are said to have conspir'd with me, was said to be intended to stir up the People in Prosecution of the Designs of those Conspirators.

When nothing of particular Application to Time, Place, or Person, could be found in it, (as has ever been done by those who endeavour'd to raise Insurrections) all was supply'd by *Innuendo's*.

Whatsoever is said of the Expulsion of *Tarquin*; the Insurrection against *Nero*; the Slaughter of *Caligula*, or *Domitian*; the Translation of the Crown of *France* from *Meroveus* his Race to *Pepin*, and from his Descendents to *Hugh Capet*, and the like, was apply'd by *Innuendo* to the King.

They have not consider'd, that if such Acts of State be not good, there is not a King in the World that has any Title to the Crown he wears; nor can have any, unless he could deduce his Pedegree from the eldest Son of *Noah*, and shew that the Succession had still continu'd in the eldest of the eldest Line, and been so deduc'd to him.

Every one may see what advantage this would be to all the Kings of the World; and whether that failing, it were not better for them to acknowledg they had receiv'd their Crowns by the Consent of willing Nations, or to have no better Title to them than Usurpation and Violence, which by the same ways may be taken from them.

But I was long since told that I must die, or the Plot must die.

Lest the means of destroying the best Protestants in *England* should fail, the Bench must be fill'd with such as had been Blemishes to the Bar.

None but such as these would have advis'd with the King's Council of the means of bringing a Man to death; suffer'd a Jury to be pack'd by the King's Solicitors, and the Under-Sheriff; admit of Jury-men who are not Freeholders; receive such Evidence as is above mention'd; refuse a Copy of an Indictment, or suffer the Statute of 46 *Edw.* 3. to be read, that doth expresly Enact, It should in no case be deny'd to any Man upon any occasion whatsoever; over-rule the most important Points of Law without hearing. And whereas the Statute, 25 *Ed.* 3.

upon

upon which they laid I should be try'd, doth reserve to the Parliament all Constructions to be made in Points of Treason, they could assume to themselves not only a Power to make Constructions, but such Constructions as neither agree with Law, Reason, or common Sense.

By these means I am brought to this Place. The Lord forgive these Practices, and avert the Evils that threaten the Nation from them. The Lord sanctify these my Sufferings unto me; and tho I fall as a Sacrifice to Idols, suffer not Idolatry to be establish'd in this Land. Bless thy People, and save them. Defend thy own Cause, and defend those that defend it. Stir up such as are faint; direct those that are willing; confirm those that waver; give Wisdom and Integrity unto all. Order all things so as may most redound to thine own Glory. Grant that I may die glorifying Thee for all thy Mercys, and that at the last Thou hast permitted me to be singl'd out as a Witness of thy Truth, and even by the Confession of my Opposers, for that OLD CAUSE in which I was from my Youth engag'd, and for which Thou hast often and wonderfully declar'd thy Self.

FINIS.

AN

ALPHABETICAL TABLE

To the Whole.

A.

AARON, *vid.* Moſes.
Abdication, Camillus *the Dictator oblig'd to abdicate his Magiſtracy.* 226
Abraham, *and the Patriarchs not Kings.* 14, 17
Could never exerciſe a Regal Power. 16
Liv'd with Lot *in perfect Freedom.* 66
Abrogation, where a Perſon Abrogates the Magiſtracy. 87, 156, 157
God declar'd Saul's *Kingdom to be intirely Abrogated.* 235
A whole People, or part of them, may at their own Pleaſure abrogate a Kingdom. 236
What is ſaid to be ſo. 287
None can abrogate the Law of God. 315, 316
Abſalom, *his Revolt.* 237, 238
Abſolute Power and Monarchy, out in its firſt beginning. 16, 39
Of France *and* Turky. 39, 63, 107, 137, 139, 319
Burdenſom and Dangerous. 61
Who fit Subjects for it. 83, 129, 135, 136
Scarce ever conquer'd a free People. 92, 98, 139, 144
Who Advocates for it. 93, 113
Nothing more mutable, or unſtable. 93, 96
Can't be reſtrain'd by Law. 96, 131, 132, 135
Where it ſhould be of more ſtrength than the Limited. 97
The ſad effects of it. 108, 163, 185, 186, 187, 319, 320, 407, 408
Rome *decay'd, and periſh'd under it.* 109
The Root and Foundation of it. 117, 130, 131
Not eſtabliſh'd among the Greeks *by Law.* 122
Encourages Venality and Corruption. 129, 130, 180
Advances the worſt of Men. 131, 132, 133, 161
In what ſenſe moſt contrary to Nature. 134
By whom only to be endur'd. 136, 319
The People under it always miſerable. 137, 149, 152, 179
All things manag'd by one, or a very few men. 138
Seems totally to be exempted from Miſtakes, and why. 153
Almoſt all Troubles ariſing in them, proceed from Malice. 153
Sedition moſt frequently in, and natural to them. 161, 163, 171, 172, 173
By what means this Arbitrary Power is ſet up. 161, 179
Few or none long ſubſiſt under it. 168
Where it cannot be introduc'd. 180

Integrity not to be found therein. 184
What care ſuch Monarchs have for their People. 191, 192
Their chief Labour is to be above the Law. 207
Abſolute Power, no Society can be eſtabliſh'd, or ſubſiſt without it ſomewhere. 414
Never well plac'd in Men and their Succeſſors, if not oblig'd to obey the Laws that ſhould be made. 415
Abuſes in Government, when never to be reform'd. 198
Account, to whom the People of Rome *were to give theirs.* 32
Accuſers, vid. falſe Witneſſes.
Acquiſition, what Right can be pretended from it. 367
Acts of Parliament, till the days of Henry V. *for the moſt part were pen'd by the Kings Officers.* 343, 418. *v.* Statutes.
Adam, *his Sin, what.* 3
His Kingdom. 14
Had only an Oeconomical, not a Political Power. 64
Adoption, wherein the folly of it. 43, 44, 45, 46
What may be call'd ſo improperly. 44, 45
Jacob *adopted* Ephraim *and* Manaſſeh. 62
Advancements, ought ever to be for the ſake of the Publick, not of the Man. 56
Have oftentimes made People worſe. 282, 283
Adverſary, who a vitious Prince reckons ſuch. 192
Adultery, became as common in Sparta, *as in any part of the World, and why.* 228
Cannot be diſpens'd withal, even by the Pope himſelf. 362
Affections of the People, the Prince's moſt important Treaſure. 219
Ageſilaus, *his great Atchievements.* 97, 98, 123
His denial of Alexander *to be greater than He.* 251
Xenophon's *great Character of him, and for what.* 269, 270
Agreements, the Treachery of violating them aggravated by Perjury. 158 *vid.* Contracts.
Made by King John *of* France, *when Priſoner at* London, *and* Francis *under the ſame Circumſtances at* Madrid, *reputed null.* 212
A good Man performs them tho he is a loſer by the Bargain. 298
The neceſſity of ſtanding to them from Religion, and the Law of Nature. 310
Between Princes confirm'd afterwards by Parliaments, &c. 402
Agrippa (Menenius) *appeas'd one of the moſt violent Seditions at* Rome, *and how.* 153
Ahab's *growing ſick on* Naboth's *refuſing him his Vineyard.* 251
When his Houſe was to be cut off. 396
Alexander *of* Macedon, *thought to be meant by* Ariſtotle *for the Man fram'd by Nature for a King.* 54, 56, 95
His Extravagant Frolicks. 95
His Fortune overthrew his Vertue. 95, 98, 394
His Reign full of Conſpiracys 163
After his Death the Kingdom fell all to pieces. 119
It is thought he dy'd by Poiſon, 119, 163
Alexander *of* Epirus, *in Valor thought equal, in Power little inferior to him.* 150
Alfred, Magna Charta *grounded upon his Laws.* 9
Acknowledg'd be found and left this Kingdom perfectly Free. 372
Alienation, vid. Dominion.
Allegiance, is ſuch an Obedience as the Law requires. 350, 377
Cannot relate to a whole Nation. 377
Alliances. 71, 106, 189
All things in their beginning are weak. 146
Change by length of time. 151
Altar, the Horns of it no protection to wilful Murderers. 269
Ambaſſadors, from whence Kings have their Right of ſending them. 359, 402
Charles Guſtavus, *his excellent ſaying to one.* 364, 365
From the Privernates, *their brave and reſolute Anſwer to* Plautius *the Conſul, when they were ſuing for a Peace.* 376, 377
From the Eſtates of Scotland, *to* Q. Eliz. 396
Ambition, honeſt and wiſe Men expoſe the Folly of it. 45, 61
Can never give a Right to any over

over the Libertys of a whole Nation. 71
Tends to publick Ruin. 121
Is the Overthrow of States and Empires. 130, 131
Man naturally prone to it, 131
What it prompts to. 165
Has produc'd more Miſchiefs than any other Deſires and Paſſions. 168, 172, 173, 176
St. Ambroſe, *ſeems to have no Knowledg of the* Gothick *Polity.* 260, 261
Anceſtors, what we ought to do, if we will be juſt to them. 382, 419, 420
Never thought their Poſterity would ſo degenerate, as to ſell themſelves and their Country. 415
By exerting their Vigor we ſhall maintain our Laws. 417
Angli, *or* Saxons; Tacitus *his Deſcription of their Coming hither, and that they had the Root of Power and Liberty in themſelves.* 348
Antiochus, *his vain boaſt to deſtroy* Greece *and* Italy. 98
How ſoon he loſt all he poſſeſt in Greece, *&c.* 139
Apoſtles, what their Work was in relation to the Civil State. 160, 172, 174, 176
Appanages, in France *to the King's Brothers, produc'd very bad Effects.* 119
Or to their Sons, but they remain ſtill ſubject to the Crown. 213, 307
Appeals, the Right of them to the People. 104, 105, 108, 115, 127, 158, 226, 284, 269
None from Parliamentary Decrees. 156
To whom they were made when there was in Rome *no ſuperior Magiſtrate in being.* 284
No pardoning a Man condemn'd upon one. 403
An Inſtance of it. 404
Arcana Imperii, *how to be meddled with.* 6, 7, 8
Arians, *as cruel as the* Pagans. 96
Ariſtocracy, what. 19, 291
For whom beſt. 53
How ſet up. 58
Was the Jewiſh *Government.* 84, 87, 216
Who Patrons for it. 136
The Lacedemonians *for it.* 216
Whether it ſeems eſtabliſh'd by Nature. 327
Ariſtotle, *ſlighted by* Filmer. 10
Commendation of him. 51, 90
His Notion of Civil Societys. 52, 53, 56, 57, 61, 83, 208
Who he thought was fram'd by Nature for a King. 54, 56, 95
Wherein he highly applauds Monarchy. 90, 91
Thinks the firſt Monarchs were but little reſtrain'd, becauſe they were choſen for their Vertue. 210
His diſtinction between a King and a Tyrant. 252, 326
Who, he ſays, are govern'd by God, rather than by Men. 288, 289
Proves that no Man is entruſted with an abſolute Power. 326
Armys, of the Eaſt *and* Weſt, *ſet up Emperors for themſelves.* 101
Out of what ſort of Men they are to be form'd. 149.
Vid. Mercenary *and* Soldiery.
Arminius, *kill'd for aiming at a Crown, which blemiſh'd all his other Vertues.* 276, 347
Arms, thoſe juſt and pious that are neceſſary, and thoſe neceſſary, when there was no hope of ſafety by any other way. 396
Artaxerxes, *and his Army overthrown by the Valor of* 10000 Grecians. 97
Artificer, what ſort of one he is to whom implicit Faith is due. 7
Aſſemblys, that took their Authority from the Law of Nature, conſider'd. 70
General of the People. 86, 87, 88
The uſe of them. 96, 348
Of the Eſtates in France, *brought now to nothing.* 120
Settled the Crown on Pepin. 171
What they ought to ſee perform'd. 214
Had the Power always *of the whole People in them.* 263
In them none judg for themſelves. 284, 285
The greateſt Truſt that can be was ever repos'd in them. 345

Inconsistent with the absolute Sovereignty of Kings. 351
Refus'd giving Supplys to their Kings in Spain *and* France, *without Orders from their Principals.* 412
Assyrians, *vid.* Eastern *Nations.*
That Empire wholly abolish'd on the Death of Belshazzar. 94
Their Valor irresistible under Nebuchadnezzar. 147
Little more known of them than from Scripture. 164
Athaliah, *more ready to cry out* Treason *than* David. 154. *Destroy'd the King's Race, and by whom herself was kill'd.* 162. *vid.* Queen.
Athens, *its Government not so much approv'd as that of* Sparta. 123
Banish'd some worthy Men, and put others to Death. 123
The Cruelty of the thirty Tyrants there. 124
As much inclin'd to War as Rome. 142
The thirty Tyrants destroy'd by Thrasybulus. 155
Their Ostracism *proceeded solely from fear.* 206
Was not without Laws when she had Kings. 281
Athletick *Habit, what.* 106, 113
Attila, *call'd the Scourge of God, and glory'd in the Name.* 292
Avarice, the evil effects of it. 45
Augustus, Rome's *longest Peace under his Reign.* 108, 163
What happen'd in it. 110
Was worse in the beginning than latter end of his Reign. 111
Had thirty mercenary Legions to execute his Commands. 329
Whether he truly deserv'd to be call'd the Head of the Romans. 391
The Name of Augustus *is a Title belonging to the* German *Emperor at this day.* 368
Austria, Spain *after many Revolutions came to this House.* 151
Princes of this House pretend to know their Original. 302
The German *Empire came to* Rodolphus *of this Name about* 300 *Years ago.* 303
What Claim this House has to the Crown of France. 308, 361
Authors of great Revolutions, their Aims. 129
Axioms in Law, are evident to common sense, and nothing to be taken for one that is not so. 337

B.

BAbel, *vid.* Nations.
Babylonian *Kings, what Right is pretended to be in them.* 27, 28
Monarchy rul'd by Force, the stronger turning out the weaker. 94
How its Pride fell. 100
Little more known of its Monarchy than from Scripture. 164
Babylon *and* Susa *trembled at the Motion of the* Grecian *Arms.* 185
There were a People there before Nimrod *was King.* 330
Balance of Power, where and how it is broken. 219, 381, 382
Nations have suffer'd extremely thro want of this Prudence in rightly balancing, &c. 394
In what manner Power should be balanc'd for the Advantage and Service of the State. 406
Banishment, not above 5 *or* 6 *Men suffer'd unjustly in the* Roman *Government, in the space of about* 300 *Years.* 104, 106, 125
The Temporary of the Athenians *never accounted as a Punishment.* 123
Camillus *recall'd from it, and afterwards honour'd.* 124
Barbarorum Regna. 208
Baron, the extent of the Name. 352, 353, 356
Baronagium, *what.* 69, 352, 353
Bartholomew de las Casas (*a* Spanish *Bishop*) *his admirable Saying concerning the Office of a King.* 34
Bassompierre, *his Saying about* Rochel. 197
Bastards, those Children can inherit nothing. 77
Declar'd with relation to Crowns. 79, 310
Advanc'd before Legitimate Brethren. 116, 117, 305, 306, 307, 365
In some Places wholly excluded. 167

Beggars of a King to Samuel, *such as would not be deny'd.* 89
Parliaments no Beggars. 296, 297
Belial, *who his Sons.* 90
Bellarmine's *Tenents.* 4, 5, 11, 12, 13, 19
Benjamites, *How they proceeded in preparing for their defence.* 88
Best Men, content with a due Liberty under the Protection of a just Law. 135, 312, 313
Have ever bin against absolute Monarchy. 136
Despis'd, hated and mark'd out for Destruction. 196, 314
Have their Affections and Passions, and are subject to be misled by them. 208, 324
Were so esteem'd who destroy'd Tyranny. 253
Whom they had need to fear. 267
Can never wholly divest themselves of Passions and Affections. 333
Birth-right, gives a Right to Sovereign Dominion. 75
Some have bin accus'd of supposititious Births. 310
Bishops, the King's Power in making them. 190
What Words of Servitude are said to be introduc'd by them among us. 276
Blake, *the Terror his Fleet struck every where.* 199
Blood; by God's Law, that Man's is to be shed, who sheds anothers. 264
The neareſt in Blood set aside, when 'twas thought more convenient to advance others. 304, 305
Boccalini, *the Princes of* Europe *angry with him for his Definition of a Tyrant,* vid. 1 Cent. 76 Advertiſement. 209
Bought and Sold, how Places come to be so. 182, 184
Senates and People can't so easily be. 183, 184
Bourbon, Henry *of that Name, not admitted to the Crown till he* abjur'd *his Religion, and promis'd to rule by Law.* 213
Bracton, *his Words,* Omnes sub eo, & ipse sub nullo, *&c. how to be understood.* 263, 264
What he calls Esse sub Lege. 283, 287
What, he says, the King is oblig'd to do by his Oath. 340
His Saying about evil, or unskilful Judges. 341
Brethren, All so by Nature. 22
Nature abhors a difference in specie *between them.* 63
Where a fraternal Equality continu'd. 66
Are Equals. 74
What advanc'd some above the rest. 85
The Governed so call'd, by their Magistrates. 390
Bribery, natural to Courts. 128, 129, 179, 180
Seeks the largest Bidder. 147
Can't corrupt, wheir Vertue is prefer'd. 181
The way to prevent it. 183, 184
A Noble Person turn'd out of a considerable Office, as a Scandal to the Court, for being an Enemy to this Vice. 183
Parliaments not so easily to be prevail'd upon. 415
Britain, *shamefully lost.* 109
Kings impos'd upon the Britans *by the* Romans, *and to what end.* 231, 341
Severe Assertors of their Libertys. 331, 346
Tho they chose Commanders in their Wars, yet they kept the Government in themselves. 347
Ever had their great Councils to determin their most important Affairs. 348
Brutus, *found it dangerous to be thought wise, and why.* 158, 168
Establish'd Liberty and the Consulate together. 318
Buchanan, *join'd to* Doleman. 4
His Character of K. James *the Third.* 211
Concerning the Violation of the Laws of Scotland. 286
Burgundy, *continu'd in* Hugh Capet's *eldest Son* Robert, *and his Descendents for ten Generations.* 307

C.

Cæsar, *of giving him his due.* 8, 257
Julius *subverted all Order by invading the Supreme Magistracy by force.* 101, 119, 258, 389
Worse than Tarquin. 121
By what means he set up his Tyranny. 128, 250, 251

Cæſar, Julius, *ſcarce any Prince had ſo many good Qualityes, till they were extinguiſh'd by Ambition.* 130
Deſign'd to make himſelf a Tyrant. 132
Thought all things lawful, when the Conſulate *was deny'd him.* 165
When the Power of the Romans *was expreſt by this Name.* 257
Had a Diadem offer'd him by Mark Anthony. 275
How obſervant he was of his Word, when taken by Pyrats. 297
The State of the Roman *Empire after his Uſurpation.* 320
Auguſtus *his Power not given, but uſurp'd.* 328, 329
Julius, *what account he gives of our Affairs here.* 331, 346
When, if ever, Fear enter'd into his Heart. 247
Cæſars, *never call'd Kings till the 6th Age of Chriſtianity.* 368
Julius, *in deſpair would have kill'd himſelf.* 389
Cain, *had no Dominion over his Brethren after* Adam's *Death.* 59, 60
From whence his fear (that every Man would ſlay him) *proceeded.* 230
Caligula, *His Wiſh that the People had but one Neck.* 10, 50, 159, 189, 391
A Monſter of Mankind. 27, 285
His making Love to the Moon, 43
His Expedition, when he ſaid, he had ſubdu'd the Sea. 109
Valerius Aſiaticus *appeas'd the Guards, by ſaying, he wiſh'd he had bin the Man had kill'd him.* 160, 285
Murder'd by his own Guards. 163
Affected the Title of being call'd God, which Claudius Cæſar *calls* Turpem Caii Inſaniam. 206 vid. 275
Whoſe Miniſter he might be ſaid to be. 272
Said of him, that no Man ever knew a better Servant, nor a worſe Maſter. 280
Wherein he plac'd his Sovereign Majeſty. 321
Calvin, *his Opinion of the Government inſtituted by God.* 84, 87
Camden, *his Credit forfeited by a great number of Untruths.* 352
Campus Martius, *was the Land that belong'd to the Kings of* Rome *(not above ten Acres) afterwards conſecrated to* Mars. 251
Cardinals, the Reſpect paid them, who have the Power of chuſing Popes. 64
Carthage, *how ſhe grew to that Exceſs of Power that only* Rome *was able to overthrow,* 113, 143
One of the moſt potent Citys in the World, 143
Caſtile, *the Lords thereof had no other Title for many Ages than that of* Count, *which was afterwards chang'd to that of* King, *without any addition to the Power.* 368
Concerning the States thereof erring. 387
Catiline, *his Temper.* 114
One of the leudeſt Men in the World. 128
Ceſſet Proceſſus, *ſaid to be annex'd to the Perſon of the King.* 403
Ceylon, *an Iſland in the* Eaſt-Indies, *where the King knows no Law but his own Will.* 407
Change, of Government, no proof of Irregularity or Prejudice to it, by thoſe that have Right. 103, 121
Nothing found more orderly. 116
A mortal one in Root and Principle. 119
In Government unavoidable. 120
What Changes deſerve Praiſe. 121
Where the Wiſdom of it is ſhewn. 121
Where they are requiſite ſometimes. 334
What are for the worſe. 381
Charter of Liberty, not from Men, but from God. 370
Parliaments interpos'd their Authority in theſe matters. 385
Chatham, *the City of* London's *Dread at the* Dutch *Fleet's burning our Ships there.* 144
Cheat of Mario Chigi, *Brother of* Alexander *VII. upon the Sale of Corn.* 187
Child or Children, a wiſe one, Eccl. 4. 13. 25, 43, 82, 201, 261
Their Duty is perpetual. 47, 59, 227, 228, 232
Of God and of the Devil. 48, 50
If Children then Heirs. 62
Wo to thee, O Land, when thy King is a Child! 63, 81
On what account Children are admitted to rule. 81
What underſtood by the word Child, 82
They do not always prove like their Parents. 184, 286, 287

An Alphabetical TABLE.

Children, the Danger of having them to be Kings. 201
The Law gives them relief against the Severitys of their Parents. 230, 231
Were punish'd with Death, and for what. 231
Christianity, has bin split into variety of Opinions, ever since it was preach'd. 144
The first Professors were of the meanest of the People. 271
St. Paul's work was to preserve the Professors of it from Errors concerning the State. 272
Sufficiently prov'd to be Antient, if prov'd to be good and true. 332
Citys, consist of Eqals. 52, 53, 56
What makes them free. 370
Cives, *v.* Incolæ.
Civil War, v. War.
Cleanthes, *his Philosophical reply to* Aristippus, *about Flattery.* 181
Clergy, the Veneration our Ancestors had for them. 350, 351
Collectors, their Extortions. 186
Commanders, after the Captivity, who thought most fit. 24
Of Armys, who best to be made so. 53
The best among the Greeks *and* Romans *in their times, would not know how to manage an Army now.* 381
Where they have bin put to Death for Misbehaviour, &c. 385
Commands of a Master, how far the Servant is bound to obey them, &c. 315, 316
Commission, from God, what. 49
They who hereby grant Authority, do always retain more than they give. 384, 413
Comitia Centuriata, *what,* 281
Commons, whether they had a part in the Government. 349, 350
Always had a place in the Councils that manag'd it. 351
Many of them in Antiquity and Eminency, little inferior to the chief of the Titular Nobility. 351, 354
The Nation's Strength and Vertue in them. 354
How all things have bin brought into the King's and their Hands. 382
Yet never can be united to the Court. 382
Have refus'd to give their Opinion in many Cases, till they had consulted with those that sent them. 386
Common-wealths, for what end instituted. 1
All the Regular Kingdoms in the World are so, 19, 52
Of Italy, *not without Valor and Vertue.* 111
How they seek Peace and War. 141
Whether better to constitute one for War or Trade. 143
Another sort compos'd of many Citys associated together, and living æquo Jure. 144
Seldom advance Women, Children, or such like, to the Supreme Power. 176
In them all men fight for themselves. 179
When the Laws are abolish'd, the Name also ceases. 179
Less Slaughter in these, than in Absolute Kingdoms. 185
Of Greece *and* Italy, *why call'd Nurserys of Vertue.* 187, 188
Justice very well administer'd in them. 266
How they may be sav'd from Ruin. 383
Competitors, Sovereigns do impatiently bear them. 17
Where their own Swords have decided their Disputes. 154, 168
Contests between them relating to the Crown, are often very bloody. 169, 171, 173, 174, 175, 179
Compulsion; he that will suffer himself to be compel'd, knows not how to die. 274
Conquest, what is so call'd. 20, 31
William I. *had the name of* Conqueror *odiously given to him.* 72
The extent thereof not the only thing to be consider'd. 108, 109
Some Common-wealths hereby design'd to enlarge their Territorys. 142
Some Conquerors never deserv'd the Name of Usurpers. 265
The King can't dispose of a conquer'd Country, because 'tis annex'd to the Office. 359
Tis the People that Conquer, not any one Man by his own Strength. 367
Conscience, how it ought to be regulated. 273

Con-

Consent General, to resign part of their Liberty for the Good of all, is the Voice of Nature. 10, 20, 134
First confer'd Power. 17, 19, 31, 66, 80
Government arises from it. 32, 33, 66, 72, 222, 223
The Right of Magistrates essentially depends upon it. 72, 73, 208, 303, 325, 330
None to Tyrannys. 73
No compleat lawful Power without it. 74, 80, 137, 155
Of the three Estates *in many places requir'd, to pass a Law.* 217
Whatsoever proceeds not from it, must be de facto *only.* 367
Constantine *the Great, with what Blood he was polluted.* 169, 218
His Power kept up Hereditary, but with extreme Confusion and Disorder. 223
Constitutions of every Government to whom refer'd. 32
Human subject to Corruption, and therefore to be reduc'd to their first Principles. 103
Where new ones are necessarily requir'd. 120
That the best, which is attended with the least Inconveniences. 125
Who indeavors the Subversion of them. 135, 382
Of Common-wealths various. 141, 365
Of the Northern *Nations that invaded the* Roman *Empire.* 143
The Temper of that of the United Provinces. 145
Good ones remain, tho the Authors of them perish. 148
The Salutary ones made by Men, God approves and ratifies. 268
Of a State aims at Perpetuity. 280
Are made for and by the People. 318
What the Imperfections of all Human Constitutions. 332
Our Antient, has bin wholly inverted. 354
What are most to be commended. 379, 394
Of no value, if there be not a Power to support them. 379, 380
Consuls, made of Plebeians, *how seldom chosen, and with what Prudence.* 103
Represented Kings, and were vested with equal Power. 115, 117, 226, 277, 372
Were created after the Expulsion of Tarquin. 121, 218
Consuls, Strangers rais'd to that Honor. 142
Tho Supreme in Power, yet subject to the People. 156, 225, 250
Marius *continu'd 5 Years in the Office.* 218
Only for a Year. 226
Title of dread Sovereign *might justly have bin given to them.* 372
If they grew insolent, how they might be reduc'd. 380
Contracts, how fram'd between Nations and their Kings. 233. *v.* 243, 244, 377
Vid. Judges, Nations, Original.
Enter'd into by Princes before their Investiture. 271
The breaking them overthrows all Societys. 297
In writing, said to be invented only to bind Villains, and why. 297
All are mutual, and whoever fails of his part discharges the other. 300
Contrariorum Contraria est Ratio. 272
Controversys, with other Nations, the Decision of them left to Judges chosen by mutual Agreement. 398
Coriolanus *duly condemn'd by the* Romans. 124
Coronation Oath. 74, 75, 80, 81
Norman *Kings oblig'd to take it.* 263
How far our Kings are oblig'd to observe it. 294, 295, 297, 298, 299, 300, 339, 373
Corporations, or Bodys Politick, what places were thought fit by the King and Council to be made so. 385
Corruption, natural to Courts, instances given. 128, &c. 132, 180
Of Ministers in Foreign Courts. 138
The Effect of that which proceeds from the Government in particular Instances. 150, 399
Of a People tends to Tyranny. 161
Makes Princes Titles good, and how. 164
Where it certainly most abounds. 179, 180, 183
Must always be oppos'd by free Governments, and why. 180, 181
The basest, but most lucrative Traffick. 182
In the Head, must necessarily diffuse it self into most of the Members of the Common-wealth. 183, 198
A just Prince that will hear his Peoples complaints himself, prevents it. 184.

Corruption, rooted in the very Principle of absolute Monarchy, which cannot subsist without it. 184
Mankind naturally propense to it. 250
Of Judgment proceeds from private Passions. 285
Of Members of Parliament. 415
Counsellors, made choice of according to the Temper of the Prince. 7, 193, 291, 292
Signify little to an absolute Monarch. 139, 151
In the multitude of them generally is safety. 386
Whether those of the King are expos'd to Punishments, and for what. 404, 418
Council of seventy chosen Men. 86
God's Counsels are impenetrable. 100
A wise and good one cannot always supply the Defects, or correct the Vices of a young or ill-dispos'd Prince. 291
Where it is of no use unless Princes are oblig'd to follow it. 292
Of Toledo, *what it made the Prince to swear before he was plac'd in the Royal Seat.* 308
Of what Persons it antiently consisted. 351, 352, 385
General, how expresst antiently by Authors. 356
When the boldest are most safe. 395
The King is oblig'd to act, cum Magnatum & Sapientum Consilio. 404
He can speak only by their Advice, and every Man of them is with his Head to answer for the Advice he gives. 418
Council-Table, the Proceedings and Jurisdiction of it regulated by 16 Car. 1. cap. X. 344
Courtiers, what things are inseparable from their Lives. 182
Their Phrase is, To make as much Profit of their Places as they can. 183
A wise Prince's saying to some about him of such. 183, 184
Wherein their Art consists. 190, 406
The modern Ones by their Names and Titles, what they are apt to put us in mind of. 351
When they speak most Truth. 373
Of Philip III. *and IV. of* Spain, *their Sottishness.* 383, 384
Cowards, the cruellest of Men. 206
Crown, how the English *became hereditary.* 77, 79
Crown, chang'd from one Family to another by the Estates of the Realm. 117, 227, 306, 307, 344, 345
Comprehends all that can be grateful to the most violent and vitious. 165
Hereditary or Elective, it has its Defects. 184
The Spartan *transported into nine several Familys.* 210
Of France, *is from the People.* 213, 306, 307
Where none would accept it, but such as did not deserve it. 219
Arminius *slain for aiming at One.* 276
Of England, *upon what Conditions accepted.* 298, 299
Five different manners of disposing Crowns esteem'd hereditary. 301
Of Spain *not fix'd in a Line, but dispos'd of as the Nobility and People thought fit.* 305
Many and bloody Contests for One. 325, 374, 375
The Demeasns of it cannot be alienated. 359
The Parliament's Power of giving and taking it away. 375
Some have fear'd the Lustre of it. 394
He that wears it can't determin the Affairs which the Law refers to the King. 401, 403
Curio, *by Corruption made an Instrument of Mischief, who had bin an eminent Supporter of the Laws.* 130
Custom, the Authority of it, as well as of Law, consists only in its Rectitude. 332
The various ones us'd in Elections. 384, 385
Had its beginning and continuance from the universal Consent of the Nation. 405
The reason why we pay Customs. 416

D.

David, *the most Reverend King, had his Posterity depriv'd, and his Kingdom at last came to the* Asmonean *Race.* 23, 24
Chose and anointed King by the Tribe of Judah. 80, 237
Slew the Sons of Rimmon, *and why.* 80
Not without his Infirmitys and Punishments. 95

David, *who were his Followers, notwithstanding the Justice of his Cause.* 162, 237
His Affection towards his People. 231
His resisting of Saul, *without assuming the Power of a King.* 235, 236
How his Heart smote him when he had cut off Saul's *Skirt.* 236
His War with Saul, *how grounded.* 237
There were many Rebellions against him. 238
How he fear'd Men more than God. 247
Why he commanded Solomon *not to suffer* Joab *to go to the Grave in Peace.* 269
Wise as an Angel of God. 386
Death, of no eminent Roman, *except one, for a long time.* 104
Citizens to be condemn'd in Publick by the Roman *Law.* 127
Of Barnewelt, *and* de Wit. 145
Often the reward of such Services as can't be sufficiently valu'd. 168
Of the neareſt Relations, Regnandi causâ. 169
The Bitterneſs of it, how aſſuag'd. 219
Very few ſuffer'd in Sparta *for above* 800 *Years.* 269
Decemviri, *only for a Year.* 118
For two Years. 284
To regulate the Law. 121, 281
Patricians favour'd them. 153
Proceeded againſt as private Men, when they continu'd beyond their time. 156
Us'd with great gentleneſs. 176
The Romans *eaſily beaten under them.* 198
The Power given to them, ſine Provocatione, *was only in private Caſes.* 284
Why the People deſtroy'd both their Power and them. 284
Deciſion of the moſt difficult matters, antiently left to the Prieſts in all Countrys. 398
In England, *where made by Judges and Jurys, and where by Parliaments.* 404, 405
Defence, all terminates in Force. 147, 148
Whether better for every Man to ſtand in his own defence, than to enter into Societys. 159
Of one's ſelf, natural. 242, 256, 257
Delatores, *See* Roman *Empire.* 101
Delegated Perſons, their Powers, to whom refer'd. 68, 69, 70
In General Aſſemblys. 71
How binding the Acts of ſuch are to the whole Nation. 72
Where the King acts by this Power. 404
Can have no Power but what is confer'd on them by their Principals. 409
How thoſe in the United Provinces, *and in* Switzerland *are us'd.* 410
Deputys of Caſtile, *refus'd in the* Cortez *to give* Charles *V. the Supplys he deſir'd, and why.* 412
Deliverers of their Countrys from Oppreſſions, how they have bin eſteem'd in all Ages. 8
What Gifts God beſtow'd on them. 25, 85, 92, 100
Often rewarded with Inheritances. 68
Their Actions carry their own Juſtification. 160
Democracy, God ſaid to be the Author of it. 11, 88
Perfect, what. 19
For whom beſt. 53, 87, 115
How inſtituted. 58
A Democratical Embaſſy. 86, 87
Of the Hebrew *Government.* 87
Never good but in ſmall Towns. 115, 122
Pure, if it be in the World, the Author has nothing to ſay to it. 132
Where it would prove the moſt juſt, rational and natural. 134
To what Miſtakes moſt liable. 153
With whom in a ſtrict ſenſe it can only ſute. 216
Denmark, *the laſt King thereof overthrew in one day all the Laws of his Country.* 130
The Crown Elective till 1660, *and then made Hereditary.* 303, 365
In ſome parts thereof the whole Volumes of their Laws may be read in few Hours. 337
The Authority of their Kings ſaid to have bin for above 3000 *Years,* 346
Nobleman and Gentleman the ſame there. 353
Depoſition of Princes, ſaid to be the Doctrine of Rome *and* Geneva. 4

An Alphabetical TABLE.

Depoſition for Miſgovernment, and others plac'd in their rooms. 69, 79, 116, 117, 201, 212, 238, 305, 331, 384

Kings, when depos'd, loſe the Right of ſending Ambaſſadors. 402

The Practice of France *and other Countrys.* 79, 120, 172, 174, 202, 305, 306, 307, 345

For Religion differing from the Body of the Nation. 79, 82, 117

If they become Enemys to their People. 159

For their ill Lives. 270, 271

Of Wamba, *a* Gothick *King, who was made a Monk after he had reign'd many Years well.* 305

Deſertion, the Cauſe of it. 138

Common to all abſolute Monarchys. 138

Of Soldiers. 197, 198, 199

Detur Digniori. 24, 25, 34, 53

Dictator, from whence his Power aroſe. 104, 250

Cæſar *made himſelf perpetual.* 107

Made occaſionally at the beginning. 118, 119, 121

A mortal Change in Root and Principle. 119

Why Mamercus *and others had this Honor.* 124, 195

Tho ſupreme, yet ſubject to the People, if they tranſgreſt the Law. 156, 225, 226, 372

His Power but for ſix Months at moſt. 226, 277, 284

Camillus *in his fourth Dictatorſhip threaten'd with a Fine.* 226

The Commiſſion that was given them, what. 365

How high the Romans *carry'd the Power and Veneration due to them.* 372

None ever uſurp'd a Power over Liberty till the time of Sylla. 380

Diets, vid. Eſtates *of the Realm, and* Parliaments. General Aſſemblys.

Difference between a lawful King and Tyrant. 61, 63, 205, 253, 290

Between Brethren, only in proportion. 62

Between Lord and Servant in ſpecie, *not in degree.* 62

Between Men fighting for their own Intereſt, and ſuch as ſerve for Pay. 197

Between Senates and abſolute Princes. 222

Difference between Magiſtrates to whom Obedience is due, and to whom not. 274, 275

Between good and bad Princes, is from the Obſervation or Violation of the Laws of their Country. 279

Diocleſian's *Saying,* Bonus, cautus, optimus Imperator venditur. 180

What made him renounce the Empire. 180

Dionyſius, *his Tyranny deſtroy'd by the* Syracuſians. 10

His Character. 27, 191

Diogenes *his ſaying of him.* 191

Diſcipline, the Excellency of the Roman. 127, 128, 140

The like in all Nations that have kept their Liberty. 140

The Effects of good and bad. 196, 197, 198

The Excellency of the Spartan. 210, 269

Diſpenſing Power, our Kings have it not beyond what the Law gives them. 326

Diſſimulation, what. 202

Diſſolute Perſons fitteſt Subjects for abſolute Monarchs. 83, 129, 161

Abhor the Dominion of the Law. 133, 192

Doctrine; ſome by that which is falſe, poiſon the Springs of Religion and Vertue. 314

Dominion, equally divided among all, is univerſal Liberty. 21

Of the whole World can't belong to one Man. 37, 39

Nor over a Nation, ever inſeparably united to one Man and his Family. 52, 62, 63, 65, 74

Deeds by which the Right of it is confer'd. 80

Uſurp'd by the ruin of the beſt part of Mankind. 128

Of France *not to be alienated.* 213

Every Child of a Parent can't inherit it. 220

How, and by whom it was confer'd. 221, 369

Implies Protection. 371

Dominus, *its Signification.* 63

The Romans *often call'd Lords of the World.* 355

Domitian, *his Character.* 189

Tacitus *calls him, an Enemy to Vertue.* 267

Duels in France, *who only could refuſe Challenges from any Gentleman.* 353

Dukes of Venice, Moſcovy, *&c.* 157, 158
Duke, Earl and Vicount, the Names of Offices. 360
Where theſe Names are Subjects, and where little leſs than Sovereigns. 369
Duty, ariſing from a benefit receiv'd, muſt be proportionable to it. 232
Of a Magiſtrate, what. 267
Of no Man to deny any one that which is his due, much leſs to oppoſe the Miniſter of God in the exerciſe of his Office. 272
What to be expected from, and render'd to them. 277

E.

EAſtern *Nations what remarkable for.* 92
Force is the prevailing Law with them. 94
Were and are ſtill under the Government of thoſe, whom all free People call Tyrants. 253, 318
Solomon's *prudent Advice to private Perſons living under the Government of theſe Countrys.* 261
Edward *II. impriſon'd and depos'd by his Parliament.* 413
IV. his Wants ſupply'd by Fraud and Rapine. 418
Election, moſt Princes choſen by the People. 68, 69, 74, 81
Prov'd from Scripture-Inſtances. 69, 71, 74, 80, 81, 87, 235, 237
From Examples of the Saxons. 71, 72, 77, 270, 271, 352
Makes a Right. 73, 80, 81
The various ways of electing Princes. 116
Frequent chuſing of Magiſtrates makes Nurſerys of great and able men. 140, 148, 194
The Prudence of Election ſurpaſſes the Accidents of Birth. 149
Of Kings in France. 212, 213, 306, 307
Of our Kings, how. 298, 299
Of Charles Guſtavus *to the Crown of* Sweden. 364
The various Cuſtoms us'd in chuſing Parliament-men. 384, 385
Elective Kingdoms. 304
Elizabeth, *Queen, her Government, not without ſome mixture of Blood.* 175
Elizabeth, *what Power made her capable of the Succeſſion.* 310, 362
Her Character and Failings. 323, 324
The Earl of Morton *ſent Ambaſſador to her by the Eſtates of* Scotland, *to juſtify their Proceedings againſt Q.* Mary. 396
None ſo much imitated Henry *V. as ſhe.* 420
Eminent, the moſt, ought only to be advanc'd to Places of publick Truſt and Dignity. 33, 57, 58
Moſt obnoxious to be taken off. 105, 126, 191
Are moſt fear'd. 168, 171
When theſe are moſt impatient. 170, 171
The Pillars of every State. 171
Emperors, Roman, *three or four, and at one time thirty, who call'd themſelves by this name.* 119
Endeavour'd to make their Power hereditary. 223
The height of their Regal Majeſty. 240, 241
St. Auſtin's, *and* Ulpian's *Saying, that they were ſubject to no Law, and why.* 261, 322
Some foully polluted themſelves with innocent Blood. 273
The Title never ſolemnly aſſum'd by, nor confer'd on them. 275, 276
Theodoſius *confeſt, it was the Glory of a good one to own himſelf bound by Laws.* 322
The preſent one in Germany, *an account of him.* 387
Empire, grounded on the Pope's Donation. 34
Gain'd by Violence is mere Tyranny. 75, 77
Acquir'd by Vertue, can't long be ſupported by Mony. 102
The Calamitys which the Roman *ſuffer'd.* 121
Settled in Germany. 172
What made Diocleſian *to renounce the Empire.* 180
Under what ſort of Governors it was ruin'd. 194, 195, 223
Of the World divided between God *and* Cæſar. 316
Not oblig'd by any Stipulation of the Emperor without their Conſent. 402
Enacting Laws, continu'd in the People of Rome. 104, 108

Enemy of a Nation, who. 33, 155, 188, 191
Every Man is a Soldier against him. 155
Who the most dangerous to supreme Magistrates. 160, 311
Who is so to all that is good. 181
Who is so to Vertue and Religion, is an Enemy to Mankind. 188, 190
Those that know they have such abroad, endeavour to get Friends at home. 255
Sycophants the worst Enemys. 293, 420
How a King declares he has none when he comes to the Crown. 325
A Prince that seeks assistance from foreign Powers, is so. 391
England, *how the Crown became hereditary.* 77
The State of it since the Year 1660. 114
How, and when the Glory of our Arms was turn'd into shame. 148
How the Succession of her Kings has bin. 167, 345
Her Wars with France *merely upon Contests for the Crown.* 173
Her Miserys by our Civil Contests. 174, 175
When her Reputation and Power was at a great height. 199
Whether our Kings were ever Proprietors of all the Lands. 247
The naked condition of our Ancestors upon Cæsar's *Invasion.* 256
Has no Dictatorian *Power over her.* 258
Ever a free Nation, and chose her own Kings. 299, 356
Made her own Laws. 346, 347, 356
We know little of the first Inhabitants, but what is involv'd in Fables and Obscurity. 331
The great number of our Laws make them inconvenient. 337
Wherein she ought to be compar'd with Rome. 341
Brave in William *I's time, when she saw her Laws and Libertys were in danger.* 342
What has cost her much Blood, and has bin the Cause of our late difficultys. 345
Our Security, the best Anchor we have, ought to be preserv'd with all care. 416
The general impairing of her may be dated from the Death of Henry *the* Fifth. 418
Epaminondas, *Forfaiture of his Life (tho sav'd) for serving his Country longer than the time limited.* 155, 156
Ephori, *establish'd to restrain the Power of Kings.* 76, 210, 345
When they were created. 393
Equality, in all by Nature. 3, 5, 12, 22, 31, 52, 327, 397
Just among Equals. 53
Civil Society compos'd of Equals. 59
Leagues don't imply absolute Equality between Partys. 80
Where 'tis hard to preserve a Civil Equality. 106
Popular, to what 'tis an Enemy. 161
Of Right, what is call'd Liberty. 221
Kings under this Law with the rest of the People. 239
Equals can't have a Right over each other. 370, 398
No Nation can have an Equal within it self. 398
Error, all subject to it. 106, 124, 153, 192
Discover'd by the Discourse of a wise and good man. 176
By it popular Governments may sometimes hurt private Persons. 188
A polite People may relinquish those of their Ancestors, which they have bin guilty of in the times of their Ignorance. 332
Would be perpetual, if no change were admitted. 334
Where they are in Government, tho it may be easy for a while, yet it cannot be lasting. 414
Escheat of the Crown for want of an Heir. 35, 36
Estates of the Realm, divided the Kingdom of France. 213, 306, 307
Their Power in voting. 217
Have dispos'd of Crowns as they pleas'd. 306, 307, 345, 364, 365. *Vid.* **Parliaments, Assemblys general.**
Evil, what is so of it self, by continnance is made worse, and on the first Opportunity is justly to be abolish'd. 346
Eutropius, *when a Slave pick'd Pockets, &c. but when a Minister he sold Citys, &c.* 182
Excommunication denounc'd on the Violators of Magna Charta. 296

F.

FAbius Maximus *one of the greatest and best of men that ever* Rome *produc'd.* 104

Fabius, Quintus, *in danger of his Life for fighting without Order, tho he gain'd a ſignal Victory.* 372
Factions about Regal Power and Succeſſion, how to be prevented. 168
The Convulſions they make. 170, 173, 382
Of the Guelphs *and* Ghibelins. 186, 187
Vertue and Vice were made the Badges of them. 192, 193
Faith, implicit, to whom it belongs. 6, 7, 314
Familys, none antienter than other, and why. 42
What requir'd to make a compleat one. 59
When our Anceſtors ſent to ſeek a King in one of the meaneſt of them in Wales. 169
None that does not often produce weak, ignorant, or cruel Children. 278, 279
Famous men for Wiſdom, Vertue and good Government. 128, 134, 135, 148, 149
Have Eyes, and will always ſee the way they go. 314
Fathers, the Power of Fatherhood belongs only to a Father. 18, 19, 42, 47
Cruel Princes no Fathers of their Country. 32, 33, 253, 254, 292, 293
Their Character indelible. 42, 47, 59
Adoption of them abſurd. 43, 44, 45, 46, 47
Who deſerve the Obedience due to natural Parents. 44
By Uſurpation. 49, 68
The Fifth Commandment *how explain'd.* 50
Who has the Right of Fathers. 58, 59
When it ceaſes. 59, 64
Embrace all their Children alike. 62
There is a ſort of Tyrant that has no Father. 292
Favourites, not always the beſt of Men. 44, 45
Their influence over Princes. 96, 97
Whom the Monarch commonly makes ſuch. 180
How their exorbitant Deſires are gratify'd. 223
Fauſtina, *two of them, who by their Aſcendency tarniſh'd the Glory of* Antoninus Pius *and* Marcus Aurelius. 180
Fear, what it tranſports a wicked Man to do. 206
Renders Communitys gentle and cautious. 207
Puts People on deſperate Courſes. 218
What is the Meaſure of it to that Magiſtrate who is the Miniſter of God. 270
Fear, when, if ever, ſaid to enter Cæſar's *Heart.* 347
Felicity, Man's, where plac'd. 3, 4
Females, vid. *Women.*
Excluded from all Offices in the Commonwealth. 392
Figurative Expreſſions, all have their Strength only from Similitude. 389
Filmer, *his Right of all Kings.* 1, &c. 84, 85, 86
Takes the World to be the Patrimony of one man. 1, 2, 205
Uſes not one Argument but what is falſe, nor cites one Author but whom he has perverted or abus'd. 2, 289
And his Partiſans, why reſerv'd to this Age. 5, 343
His Buſineſs is to overthrow Liberty and Truth. 6, 419
His bitter Malice againſt England. 9
Makes God the Author of Democracy. 11
His Lord Paramount over Children's Children to all Generations. 13, 14, 15
His Opinion, to whom all Kings are reputed next Heirs. 26
Where his Kingly Power eſcheats *on independent Heads of Familys.* 35, 42
His Adoption of Fathers of Provinces, for what. 45
His Notion, That we muſt regard the Power, not the means by which it is gain'd. 46, 67, 68, 155, 235, 322
His diſtinction between eligere *and* inſtituere. 73, 74
His vile abuſing of the Reverend Hooker. 75, 80
His Notion of begging a King. 80
Abſolute Monarchy to be the Nurſery of Vertue. 92
Attributing Order and Stability to it. 92, 122
Imputing much Bloodſhed to Rome's *popular Government.* 105
His Backdoor, Sedition and Faction. 116, 118
His Opinion, That the worſt men in Rome *thriv'd beſt.* 122, 125
That the Nature of all People is to deſire Liberty without reſtraint. 133
His Cypher *of the Form of mix'd Governments.* 136, 137
That there is a Neceſſity upon every People to chuſe the worſt men, for being moſt like themſelves. 148
His Deſcription of the Tumults of Rome. 179
Affirms that more men are ſlain in popular than abſolute Governments. 185

An Alphabetical TABLE.

Filmer, *the extent of his Cruelty's of a Tyrant.* 188
His attributing Ignorance and Negligence to popular Governments. 193
His Notion, That the Vertues and Wisdom of a Prince supply all Distempers of a State. 200
That there is no such Tyranny as that of a Multitude. 202
That Kings must be absolute. 207, 208
His Notion of a King's ceasing to be so. 207, 215
His Whimsy about Democracys. 216
That all the Peoples Liberty's flow from the gracious Concessions of Princes. 220, 246
That there is no coming at a King, if he break his Contract with his People. 224
That a Father of a Family governs it by no other Law than his own Will. 228
That patient Obedience is due both to Kings and Tyrants. 228
That there were Kings, before any Laws were made. 229
That Abraham, Isaac, Jacob, *and* Moses *were Kings.* 241
That Samuel *by telling what a King would do, instructed the People what they were to suffer.* 242, 244
That Inconveniences and Mischiefs are some of the Essentials of Kingly Government. 245
That all Laws are the Mandates of Kings. 246
His ridiculous Saying, Those that will have a King. 249
That the Jews *did not ask a Tyrant of* Samuel. 252
That the Peoples Crys are not always an Argument of their living under a Tyrant. 254
That our Saviour limits and distinguishes Royal Power. 257
That the Tribute Cæsar *impos'd was all their Coin.* 258
Cites Bracton, *as a Patron of the absolute Power of Kings.* 264
That St. Paul's higher Powers *meant only a Monarch that carrys the Sword,* &c. 266
That Kings are not bound by the positive Laws of any Nation. 273, 289
That the Original of Laws was to keep the Multitude in Order. 278
That Laws were invented for every particular Subject to find his Prince's Pleasure. 282
That Kings are above the Laws. 284
Filmer, *his Opinion when Princes degenerate into Tyrants.* 286
That Tyrants and Conquerors are Kings and Fathers. 289
That the King swears to observe no Laws, but such as in his Judgment are upright, &c. 294
That Kings are not oblig'd by voluntary Oaths, &c. 297
His Principles animadverted on. 311, 312
That Obedience is due to a Command, tho contrary to Law. 314
That the King's Prerogative to be above the Law, *is only for the good of them that are under it.* 317
His equivocal King. 320
His Opinion, That the Law is no better than a Tyrant. 324
That a perfect Kingdom wherein the King rules by his own Will. 326
That the first Power was the Kingly in this Nation. 329
That all Judges receive their Authority from the King. 337
That the Power of Kings can't be restrain'd by Act of Parliament. 343
That the King is the Author, Corrector and Moderator of both Statute and Common Law. 346
His trivial Conceits about Parliaments, the time when they began, &c. 346, 349, 350
His Notion about Usurpers and lawful Kings. 361
That the Liberty's claim'd in Parliament, are Liberty's of Grace from the King, and not of Nature to the People. 363
That the Peoples Language is submissive to the King, but his is haughty to them. 372
That Kings may call and dissolve Parliaments at pleasure. 383
Admires the profound Wisdom of all Kings. 386
A bitter Enemy to all Mankind. 407, 408
His Book here lately reprinted, as an Introduction *to a Popish Successor.* 408
His meaning of Le Roy le veut. 416, 417, 418
Flatterers, what the vilest of them dare not deny. 7
What call'd by Tacitus. 112
The Hebrew *Kings not without them.* 162
Their pernicious Advices to what end given. 165

Flat-

Flatterers, weak Princes most subject to them. 170, 180, 182, 196
Cleanthes's saying to Aristippus. 181
By what handle they lead their Princes. 190
Have made Valor ridiculous. 198
By whom thought the best Friends, and most worthy of great Trusts. 313, 314
The Author's wish, that Princes would abhor these Wretches. 341
Almost ever encompass crown'd Heads. 406
Fleets, when ours were very famous. 199
Florence, *the Seditions there, and in* Tuscany. 186
More depopulated now than any part of that Province, tho formerly in a few hours it could bring together 135000 *well-arm'd men.* 187, 318
Folly; Mankind does not universally commit, and perpetually persist in any. 36
Some are Fools at 40 *years of Age.* 201
Lord Chancellor Egerton *said he did not sit to relieve Fools.* 298
Force, where 'tis the only Law that prevails. 94
What the Romans *gain'd by the Valor of their Forces.* 109
All Defence terminates therein. 147, 215
Those that use it, must perfect their Work or perish. 153
Or Fraud, in opposition to the Laws of ones Country, is absolutely Monarchical. 179
When the Spartan *Kings were overthrown by it.* 210
Is generally mortal to those that provoke it. 215
To be us'd, when there is no help in the Law. 219, 279, 395
Can never create a Right. 222, 233, 367
The French *under a Force they are not able to resist.* 246, 247
What is gain'd by it may be recover'd the same way. 303, 367
When all Disputes about Right naturally end in force. 379
Forfeiture of Liberty, how it can be. 370
Fortune, of all things the most variable. 100
How Right is made a Slave to it. 167, 168
Of a Prince, supplys all natural Defects. 200
France, *the Salick Law there.* 40, 78, 301, 302
France, *Her antient Kings Right how confer'd on them, and what was her antient Government.* 77, 366
Her Revenge on England *for all the Overthrows she receiv'd from our Ancestors.* 114
Frequently divided into several Partys. 119
Her Races of Kings four times wholly chang'd. 120, 169, 170, 201, 212
The miserable condition of her People. 137, 171, 172, 198, 199, 378, 417
Her greatest Advantages have bin by the mistaken Counsels of England. 138
Her bloody Contests and Slaughters for the Crown. 169, 170, 171, 172, 173
Had ten base and slothful Kings, call'd, Les Roys faineans. 170, 201
The Regal Power limited. 172, 212
Had four Kings depos'd *within Years.* 150 172
Civil Wars frequent there, tho not so cruel as formerly. 173
Compar'd with Venice. 196
Her Soldiers running from their Colours. 198, 199
Her general Assemblys continu'd the exercise of the Sovereign Power, long after Lewis *XI's Death.* 211, 212
Had never any Kings but of her own chusing. 212
Henry *V. of* England *most terrible to her.* 212
Their Laws made by themselves, and not impos'd on them. 212
The People have understood their Rights. 213
The reason of the Peoples Miserys. 246, 247, 251, 252
The Right to the Crown is in a great measure from the Law of that Country. Instances hereof. 306, 307
She does not allow her Kings the Right of making a Will. 307
By whom the Power of conferring the Sovereignty was exercis'd. 365
By the Peoples increasing the Power of their Master, they add weight to their own Chains. 378
Her King can't be call'd the Head of his People, and why. 392
Le Roy le veut, & tel est notre plaisir, *are* French *Rants; but no Edict there has the Power of a Law, till it be register'd in Parliament.* 417
The Conquest of her only to be effected by the Bravery of a free and well satisfy'd People. 420

Franks, *ſoon incorporated themſelves with the* Gauls. 143
Fraud, accounted a Crime ſo deteſtable, as not to be imputed to any but Slaves. 342
All wicked Deſigns have bin thereby carry'd on. 388
Who delight in it, and will have no other Miniſters but ſuch as will be the Inſtruments of it. 419
Free, what Nations ſo eſteem'd. 9, 318
Vid. *Popular Governments.*
Men, how to know our ſelves ſuch. 19, 65, 66, 89, 300, 318
People, ſcarce ever conquer'd by an abſolute Monarch. 92, 98
Philip *of* Macedon *confeſt his People to be free men.* 98
The Britans *were ſo, becauſe govern'd by their own Laws.* 346
Men, or Noblemen, exempt from Burdens, and reſerv'd, like Arms, for the uſes of War. 354
Free Citys, what and who made them. 370
Frugality, the Vertues that are upheld by it. 250
Fruits of our corrupt Nature. 84
Own Labor. 86
Recover'd Liberty. 116
Victory, how gain'd and loſt. 148
Always of the ſame Nature with the Seeds from whence they come. 196

G.

Genealogys, the Hebrews *exact in obſerving them.* 23, 223
Of Princes nicely to be ſearch'd into, would be dangerous to ſome Crowns. 36, 37, 39, 366
Of Mankind very confus'd. 36, 224, 302
Of being the eldeſt Son of the eldeſt Line of Noah. 221
Geneva *and* Rome, *wherein they only can concur.* 4
Genoa, *how it is govern'd.* 115, 143
By whom that City was infected. 144
Gentlemen, at this day comprehends all that are rais'd above the common People. 353
Germanicus *his Modeſty in refuſing the Empire, was the occaſion of his Death.* 168, 298
Germany, *how govern'd.* 115, 347
Equal to the Gauls *in Fortune, ſo long as* Rome *was free.* 150
The Power of the German *Kings.* 210
The Power of this Emperor. 211
Germany, *from thence our Original and Government is drawn.* 270
When ſhe had no King. 276
The Emperors thereof reſtrain'd by Laws. 279
The Weſtern *Empire, how it came hither.* 303
Tacitus's *account of the Peoples Valor.* 347
Not imaginable, that theſe People, jealous of Liberty, ſhould conquer this Country to enſlave themſelves. 349
No Monarchy more limited. 373
Gibeonites *by deceit got* Joſhua *to make a League with them.* 298
Gladiators *were Slaves.* 106, 111
Their Fury extinguiſh'd with their Blood. 111
God, with an equal hand, gave to All the Benefit of Liberty. 11
What ſort of Kings he approves in Scripture. 13
Can ſave by few as well as by many. 14
Always conſtant to himſelf. 24, 234
Never preſcrib'd any Rule about dividing the World. 37
The Fountain of Juſtice, Mercy and Truth. 48, 55
By a univerſal Law gave no Rule for the making of Kings. 73
Is our Lord by Right of Creation. 89
How he endow'd the Rulers of his People. 92
His ſecret Counſels impenetrable. 100
What the uſual courſe of his Providence. 113
Helps thoſe who juſtly defend themſelves. 147
His general Ordinance. 154
Gave Laws to the Jews *only.* 166
When he refus'd to hear the Crys of his People. 234, 240, 244
His Anointed and Accurſed. 237
A Law in Rome, *that no God ſhould be worſhip'd without the Conſent of the Senate.* 272, 273
Good; every one ſeeks their own, according to the various motions of their Mind. 32, 66, 205
The Publick, the end of all Government. 79, 229, 255, 285, 286
Is more obſerv'd in mixt than abſolute ones. 193
Of Mankind depends on Religion and Vertue. 190
Call'd Evil, and Evil Good. 267
Actions always carry a Reward with them. 312
Good and Evil, but three ways of diſtinguiſhing between them. 24

An Alphabetical TABLE.

Good Men, who deserve to be call'd so. 1
How they obey their Princes. 180, 181
Know the weight of Sovereign Power, and doubt their own Strength. 394
Goodness is always accompany'd with Wisdom. 286
Gospel, the Light of the Spiritual Man. 190
Goths, *their Polity.* 115, 321
For above 300 *Years never contracted Marriages, nor mix'd with the* Spaniards. 143
Seiz'd Rome, *whilst* Honorius *was looking after his Hens.* 150
Subdu'd by the Saxons *in one day.* 198
Grew famous by the Overthrow of the Roman *Tyranny.* 261
Concerning Succession to the Crown during their Reign. 301
Not above four in 300 *Years time were the immediate Successors of their Fathers.* 304
In Spain *overthrown by the* Moors. 305, 399
Their Kings in Spain *never ventur'd to dispute with the Nobility.* 345
Their Kingdom never restor'd. 399
Government, the Original Principles of it to be examin'd, and our own in particular. 6, 91
An Ordinance of God. 11, 13
The several Forms thereof left to Man's choice. 11, 13, 20, 32, 37, 38, 41, 58, 61, 65, 66, 83, 103, 115, 132, 134, 216
Of the lawfulness of changing it, consider'd. 12, 103, 116, 256
Despotical differs from the Regal. 14, 15, 51
The Ground of all just Governments. 19, 127, 137, 339
No Man has it either for or from himself. 24, 81, 155, 208, 290
None ever began with the paternal *Power.* 27
To whom the Constitution of every Government is refer'd. 32
All for the good of the People and their Posterity. 48, 60, 61, 67, 81, 85, 91, 108, 132, 146, 147, 149, 292, 333, 379
Is a Collation *of every man's private Right into a publick Stock.* 52, 64
Where just, it has ever bin the Nurse of Vertue. 52, 57
Popular for whom best. 53
For whom instituted. 60, 63, 127
What sort was ordain'd by God. 86
The Effects of one well order'd. 100
What only deserves Praise. 109, 111
Government, how the best has bin compos'd. 115, 143
Regal had a mixture of Aristocratical and Democratical in them. 117
Whence the Denomination of all is taken. 117, 123, 216
The Foundation remaining good, the Superstructures may be alter'd. 118, 121, 122, 152, 256
When it cannot subsist. 124
The Effects of a disorder'd One. 125
All subject to Corruption and Decay. 131
None impos'd on men by God or Nature. 133, 137
Mixt compar'd with Absolute. 135, 407
What the only just one, by consent of Nations. 137
What may be imputed to it. 140
None ever freer from popular Seditions than Switzerland. 145
That the best, which best provides for War. 146, 147, 149
None without Civil Wars, Tumults and Seditions. 152, 185, 186
The end for which it is constituted. 159, 160, 207, 371
The Roman, *how introduc'd.* 163
Expos'd to the most infamous Traffick. 182
Of what parts it may consist. 216
Is a great Burden to the Wise and Good. 218, 219, 280, 282, 292, 319
To reform it, is to bring it to its first Principles. 219, 399
Questions arising concerning our own, must be decided by our Laws, and not by the Writings of the Fathers. 259
St. Paul's *Obedience to higher Powers, must be understood to all sorts of Government.* 266
What would make all in the World magna Latrocinia. 274
When the Ends of it are accomplish'd. 320
Most of them have bin mixt, at least good ones. 321, 407
What only is reckon'd good. 327, 328
Our own the same with the Roman *in principle, tho not in form.* 342
From whence the great variety of them proceeds. 379
The English, *not ill constituted.* 380
By what means the Foundations may be remov'd, and the Superstructure overthrown. 381
In a well constituted one the Remedys against ill Magistrates are safe and easy. 393
Wisdom and Valor requir'd for the Institution of a good one. 400

Government, where it is either intirely to be chang'd, or reform'd according to its first Institution. 400
The Bleſſings of an Abſolute one. 408
Its Eſtabliſhment is an arbitrary Act, wholly depending upon the Will of man. 414
Governors appointed to execute the Laws for the good of the People. 52, 54, 63, 156, 399
The Law appoints helps for their Infirmitys, and reſtrains their Vices. 218
The Peoples Creature. 241, 249, 370, 397
Where they are removable, if they will not be reclaim'd. 399
The Good and Bad make the People happy and miſerable in their turns. 407
Grants of K. John *to the Pope, declar'd by Parliament to be unjuſt, illegal,* &c. 296
What implys an Annihilation *of ſome Grants.* 328
Where they ought well to be prov'd, that the Nature and Intention of them may appear. 358
Of what nature thoſe of our Kings are. 350
Of Lands, where they have bin reſum'd. 360
Grecians, *knew no other Original Title to Government, than that Wiſdom,* &c. *which was beneficial to the People.* 30, 31
Wherein they excel'd other Nations. 92
Overthrew the vaſt Armys of the Perſians. 97, 98
Were reduc'd to yield to a Vertue greater than their own. 113
No abſolute Monarch among them eſtabliſh'd by Law. 122
Have bin by diſorder in Government, expos'd as a Prey to the firſt Invader. 150
When they were happy and glorious. 185
Their Vertue expir'd with their Liberty. 195
The word Tyrant *came from* Greece, *and what it ſignify'd.* 253
Flouriſh'd in Liberty in the time of Saul. 255
Grotius, *his Explanation of Sovereign and limited Power.* 156, 214, 366
Wherein he juſtifys Subjects in taking up Arms. 190
His making St. Peter *and St.* Paul *perfectly agree, about their different Phraſes of* Ordinances of God, *and* Ordinance of Man. 268
His ſaying, Qui dat finem, dat media ad finem neceſſaria. 384
Grotius, *about King's Stipulations, and Right of ſending Ambaſſadors.* 402
Guelphs *and* Ghibelins, *their Factions in* Tuſcany. 111, 186, 187
Genoa *infected with their Factions.* 144
Guſtavus (Charles) *his confeſſing to an Ambaſſador how he ought to reign over the People that had choſe him.* 364, 365
He and his Uncle Adolphus *were content with the Power that the Laws of their Country gave them.* 387

H.

HAnnibal, *kill'd more great* Roman *Captains than any Kingdom ever had.* 140
The Samnites *Embaſſy to him.* 140
How he loſt the Fruit of all his Victorys. 150
When he invaded Italy, *no Country ſeem'd to have bin of greater Strength.* 186
What to be done, if he be at the Gates. 383
Hanſeatick *Towns.* 145
Hatred Univerſal incur'd by Princes, who always fear thoſe that hate them. 189, 192, 232
To all that is good. 191
Head, why Kings are call'd by this Name, and the import of the Word both in Scripture *and* Profane *Authors.* 388, 389
The differences between the Natural and Political. 389
What the Office of a Head is in a natural Body. 390, 391, 392
Hebrew *Judg different from a King.* 85
Kings not inſtituted by God, but given as a Puniſhment. 85
How their Government conſiſted. 115, 143
Kings their Power exceeded the Rules ſet by God. 162, 215
What their Diſciplin. 210
In their Creation of Judges, Kings, &c. *had no regard to Paternity.* 221
Like to their Neighbours in Folly and Vice, and would be like them too in Government. 234
Their Power greater than what the Law allows to our Kings. 261
Whether the Law given them by God be ſo perfect as to be obligatory to all Nations. 335
Heir reputed, the abſurdity of the Notion. 26, 27, 28, 29, 31, 35, 42

An Alphabetical TABLE.

Heir, next in Blood. 39, 40, 59, 60, 78, 79, 93, 365
Annex'd to one ſingle Perſon. 62
All the Children of Noah *were his Heirs.* 62
Next to the Crown ſet aſide. 78, 80, 305, 306, 307
Bellay's *extravagant Doctrin of an Heir apparent.* 309
Enjoys the ſame Rights as the Parent, and devolves the ſame to his Poſterity. 370
Hengiſt *and* Horſa, *on what Terms the County of* Kent *was given them.* 357
Henry *IV. of* France, *how he deſir'd to recommend himſelf to his People.* 309
I. of England, *whether he was an Uſurper or not.* 361
V. His Care was to pleaſe his People, and to raiſe their Spirits. 418
W as terrible to France. 212
His Character. 418, 419, 420
VI. Became a Prey to a furious French *Woman.* 418
VII. Had neither Croſs nor Pile for his Title. 362
VIII. acknowledg'd the Power of the Parliament, in making, changing and repealing Laws. 287, 342
Heptarchy, when this was divided into 7 Kingdoms, each kept ſtill the ſame Uſage within it ſelf. 348
Could as eaſily unite the 7 Councils as the 7 Kingdoms into one. 349
Hercules, *an account of him.* 113
Hereditary Right can't naturally be in any. 38, 60
Prerogative of Dominion, how underſtood. 52
Right, as a Reward of Vertue. 68
How a Kingdom comes to be ſo. 76, 77
Crowns ſo as to their ordinary Courſe, but the Power reſtrain'd. 116
Monarchys, in them no care is taken of him that is to command. 149
According to Proximity of Blood, not preſcrib'd by any Laws of God. 166
Children ſeldom prove like their Parents. 184
Crowns, five different ways of diſpoſing them. 301
Heroum Regna. 31, 58, 229
The Government of whom. 221
Hiſtory Roman, Tacitus *ſays it wanted men to write theirs.* 194
Hobbs, *ſcurrilouſly derides* Plato, Ariſtotle *and* Cicero. 32
His Bellum omnium contra omnes. 37, 41, 311
Hobbs, *his* Hoſtis & Latro. 155
The firſt that contriv'd a compendious way of juſtifying Kings in the moſt abominable Perjurys. 295
Holland, *of great Strength ſince the Recovery of their Liberty from the* Spaniſh *Yoke.* 98
The War with them in 1665. 199, 200
How they have defended themſelves from the greateſt Monarchys. 266
The States are call'd High and Mighty Lords; *and the word* Heer, *which ſignifys* Lord, *is as common as* Monſieur *in* France, *&c.* 355, 373
The Condition of the 17 *Provinces of the* Netherlands, *when they fell to the Houſe of* Auſtria. 378
The Power of the States-General *how limited.* 402
Honors, the higheſt falſly attributed to ill men. 45
Given to ill-gotten Wealth. 55, 100, 101, 114, 182, 183
To ſuffering Vertue ſometimes. 124
Where they have bin the Rewards of Vice. 129
To thoſe who diſſerv'd the Commonwealth. 135, 136
Juſtly beſtow'd on thoſe that rightly perform their Duty. 157
From whom purchas'd. 182
Given for Services done to the Publick. 223
Princes could not without breach of Truſt confer them upon thoſe that did not deſerve them. 350
Hooker, *his Miſtake in the fundamentals of natural Liberty.* 10
His admirable Saying about lawful Powers. 74
Slighted by Filmer. 80. *vid.* 10
Hottoman *his Character and Account of the* French *Kings.* 212
Human Nature, the miſerable State of it, if not improv'd by Art and Diſciplin. 256
Frailty, Allowances muſt be made for it. 324
Hurt, They do none who do nothing, *where this Rule is falſe.* 170

I.

JAmes *I. (King) his Saying about his making of Judges and Biſhops.* 190
Acknowledges himſelf the Servant of the Common-wealth. 214
Said he was ſworn to maintain the Laws, and ſhould be perjur'd if he broke them. 286, 416

James

An Alphabetical TABLE.

James II. *what we might expect from him.* 408
Japhet, *this part of the World seems by the* Scriptures *to be given to his Sons.* 302
Jealousy of State. 168, 175
Jesuits join'd to Geneva. 4
To be believ'd with caution. 58
The present Emperor of Germany *too much govern'd by them.* 387
The Soul that gives Life to the whole Body of the Popish *Faction.* 408
The Order banish'd out of the Kingdom by an Arrest of the Parliament of Paris, *but refus'd by those of* Tholouse *and* Bourdeaux. 417
Jews *had a great Veneration for the House of* David, *and why.* 81
Grown weary of God's Government. 89, 252
Had leave to destroy their Enemys. 94
Idolaters among them in David *and* Hezekiah's *days.* 129
Idolatry the production of the Government they had set up. 162, 163, 209
Submit to the Roman *Power.* 257
Thought Christ's *first Work would be to throw off the* Roman *Yoke.* 259
Being converted, thought themselves freed from the Obligation of human Laws. 271
Some pretend to know their Original. 302
A Proclamation to extirpate them. 407
Imperator, *a Name given by the* Roman *Armys to Pretors and Consuls.* 368
Imperium summum summo modo, 78, 156, 366
modo non summo, Liberrimum.
Ab eo à quo Spiritus. 369
Imposing on Peoples Consciences. 144
On some Princes how easy it is. 182
Incolæ, *who they are at* Venice. 115
Distinction between them here and Cives. 384, 385
Indemnity, the assurance of it would turn mens other Vices into Madness. 225
Industry, what is a Spur to it. 193
Infancy, vid. *Child.*
Inheritance, the common division of it among Brothers. 62, 63
Where it gave no Right to Crowns. 77, 80
To one Family. 78, 80, 93
Of the Sword left to Familys. 95
What the Apostles *left to their Successors in relation to the supreme Power on Earth.* 160
Private, many Controversys arise upon them. 166
Inheritance; what Right is equally inherited by all Children on the Death of their Parents. 220
William *I. did not leave the Kingdom as such at his Death.* 271
What belongs to Females. 302
Little regard to it in the Austrian *House according to Blood.* 309
In some Places the Law gives private Inheritance to the next Heir, in others makes Proportions and Allotments. 309
Injurys, the ways to prevent or punish them, either judicial or extrajudicial. 154, 160
Great ones, will one time or other fall on those that do them. 215
The Italians *say, he that does an Injury never pardons.* 232
Those that are extreme, when so to be understood. 287
Injustice, what is so in the beginning, can never be the effect of Justice. 327
Inquisition of Spain *and other Places.* 273, 408
Instinct, what. 87
Institution, he that institutes may also abrogate. 12, 48, 287
Is an Election. 73
Of a Kingdom is the Act of a free Nation. 213, 250
No Prince had a more solemn one than Saul. 235
Some Kings have by it but little Power. 261
The Magistrates Prerogatives depend upon it. 275
Of Power is coercive. 277
When Princes deflect from the end of theirs. 284
Wherein the End of it chiefly consists. 311, 320
Often the Corruption of the State is taken for it. 332
They who institute a Magistracy, best know whether the end of the Institution be rightly pursu'd or not. 364, 394
Integrity of Manners makes Laws as it were useless. 128
Never subservient to the Lust of Princes. 129
Makes men contented with a due Liberty. 135
Preserves popular Equality. 161
Can't be found in absolute Governments. 184
Preserves the Peoples Safety. 250
Interest, what advantages are reap'd from uniting the Nations to that of the Government. 197

An Alphabetical TABLE.

Interest, Personal, prefer'd to the publick Good. 250

Interregnum, *that there can be none, a fundamental Maxim of great Monarchys.* 166

John's *(King) Grants to the Pope declar'd by the Parliament unjust, illegal.* 296

Josephus *of the* Jewish *Government.* 84
On what account he calls it a Theocracy and an Aristocracy. 87, 216
Says, their Princes were to do nothing without the advice of the Sanhedrin, *or to be oppos'd if they did.* 209

Joshua, *had neither the Name nor Power of a King.* 85, 230

Isaac, *his Character.* 15

Israelites, *had no Kings in the first Institution of their Government.* 30
Nor till 400 Years after. 331
Strangers only excluded from being Kings. 74
Their Government Aristocratical. 84
What the effect of their having Kings. 94, 215
After Solomon, *perpetually vex'd with civil Seditions and Conspiracys, &c.* 162
Ask'd for a Tyrant (tho not by that Name) when they ask'd for a King after the manner of other Nations. 252
Not known certainly by what Law they were govern'd. 331
Liv'd under the Power of Tyrants whose Proclamations were Laws. 409

Italy, *when she lay desolate.* 100, 164
How her Common-wealths have flourish'd and decay'd. 111, 112, 149, 151, 164, 186, 187

Charles *VIII. of* France *conquer'd the best part of it without breaking a Lance.* 138, 150, 236

Judg, where every Man is to be his own. 65, 66, 286, 387, 397
Who shall be between Prince and People. 158, 159, 284, 285, 310, 333
No Prince fit to be judg of his own Facts. 284, 285, 318, 397, 399
The Power of judging when 'tis fit to call the Senate or People together, to whom and by whom refer'd. 364, 383
The Parliament the best Judg in dubious Cases. 386, 387, 399
Where 'tis not fit to be a Judg in his own Case. 398

Judges (such as Joshua, Gideon, *&c.) whether their Power was regal and just or not.* 23, 24, 226
Whether there be any concerning Kings Titles. 166
Judges, the Power of making them. 190
Sometimes the Courts are fill'd with ill ones. 192, 338
Appointed to decide the Contests arising from the breach of Contracts. 225
Their Opinion concerning Ship-money. 249, 403
The Religion of their Oath. 283, 288, 323, 337, 338, 339
Parliament own'd by Kings to be Judges of their Stipulations. 297
What they ought to be, and in what sense chosen by the King. 323
Who were executed as Traitors *for subverting the Laws of the Land.* 323, 338, 403
What Act Edw. 3. *promoted for his Judges to do Justice.* 324
The general Rule they are sworn to observe. 325, 338, 403
The Power by which they act is from the Law. 336, 337, 338
When they become the Ministers of the Devil. 341
The sad consequence of having all Kings constituted Judges over the Body of the People. 386, 387, 397, 399
To determin Controversys in a matter of Right. 398
Whose Commands they are bound to obey. 403

Judgment perverted, the ill effects of it. 7
Future, not sufficient to restrain men from being vitious. 264
Here they are pass'd by Equals. 338
Those the Kings of Judah *gave, were in and with the* Sanhedrin. 338
None that is right can be given of human things, without a particular regard to the time wherein they pass'd. 381
Kings can give none upon any of their Subjects, and why. 401, 402, 403
Human is subject to Error. 418

Jurys, Grand *and* Petit, *their Power.* 323, 338
How the Judges are Assistants to them. 338
In whose sight they give their Verdict. 403

Justice, has always Truth for its Rule. 28, 59
What the proper Act of it. 54
Of every Government depends on an Original Grant. 67
Has sometimes bin perverted by the deceit of ill men. 124, 324
The Sword of it for what Use and End. 154
Where it will be expos'd to sale. 183

Juſtice, the Rule of Civil and Moral Actions. 190
How well adminiſter'd in Republicks. 266
What is meant by it. 272, 274
The diſtribution of it juſtly, is a Work above the Strength of one Man. 282
When the Courſe of it is certainly interrupted. 312
Deviations from it. 324
Where it is beſt adminiſter'd. 333
Overthrown by the number of Laws. 337
In receiving it the King is equal to another man. 338
Magiſtrates made to ſee it well executed. 399

K.

KAtherine de Medicis *ſaid never to have done any good but by miſtake.* 125
Kingcraft, what. 202, 213, 214
Was wholly exerted in the ſubverſion of the Laws of France, *and the Nobility that ſupported them.* 418
Kingdom, the Patriarchs had a ſpiritual one. 14, 15
No paternal one among the Hebrews. 23
Thought never to be bought at too dear a rate. 30
How the firſt Kingdoms were ſet up. 35
What are lawful ones. 52
What it imports. 76
One poſſeſt by nine ſeveral Familys within 200 Years. 95
All have their various Fluctuations, thro ill Diſciplin or Conduct. 96, 147
The greateſt have bin deſtroy'd by Commonwealths. 149
Diſputes about them moſt difficult and dangerous, and very bloody in ſeveral Inſtances. 166, 169, 170
Of France *divided by the Eſtates of the Realm.* 213
Not eſtabliſh'd but for the good of the People. 218
Of Granada, *their Uſage of their Princes.* 218
All erected at firſt by the Conſent of Nations. 222
Frequently reduc'd to their firſt Principles. 222
Some Elective, *ſome* Hereditary, *and how directed.* 365, 366
Conſtituted by conquering Armys, and thoſe eſtabliſh'd in the moſt orderly manner. 367
And States, how they came to be erected. 371
Kings, the Prerogative or Royal Charter granted to them. 2, 57
The end of their Inſtitution. 4, 5, 12, 32, 34, 48, 54, 55, 67, 77, 191, 340, 399
Whether they may be reſtrain'd or cenſur'd. 5, 12, 35, 50, 116, 156, 158, 159, 209, 215, 218, 239, 277, 278, 366, 369, 384, 396
In what ſenſe they are like other men. 7, 43, 89
Evil ones will have evil Miniſters. 7, 131
The relation between them and the People. 10
The only ſort mention'd in Scripture *with approbation.* 13, 85, 250, 321
The firſt a cruel Tyrant. 16
Who taken from out of the leaſt Family of the youngeſt Tribe. 23
All not the natural Fathers of their People. 26
Whom the Antients choſe for theirs. 30, 31, 60, 85
Not all of them wiſe. 43, 201, 386
A King by Nature, who. 54, 56, 58, 90, 95, 268, 327
No deſign to ſpeak irreverently of them. 71, 131
Set up by the Nobles, Antients and People. 72, 74, 76, 77, 80, 108, 213, 215, 290, 305
All not alike in Power, nor Spirit and Principle. 77, 286
Some good and ſome bad. 387, 407
Whether any are immediately ſo on the Death of the Predeceſſor, and before they are proclaim'd. 80, 81, 166
Given in Wrath. 85, 86, 117, 308
426700 *Kings.* 88
Many great Ones o'erthrown by ſmall Republicks. 92
Few poſſeſs the Qualitys requiſite. 94, 184, 208, 217
The Name thereof aboliſh'd. 116, 275, 276
Regis ad exemplum, *not always ſo in all.* 129
A vertuous one, but a momentary help ſometimes, when his Vertues die with him. 139, 171, 184
Whether thoſe may be thrown down that ſet up themſelves. 159
The Slothful and Negligent accounted great Evils. 170, 171, 172, 175, 192, 194
The beſt liable to be corrupted, and ſubject to Miſtakes and Paſſions. 180, 318, 397
Who ſaid to be like a Phœnix. 184

Kings

Kings, none ſo vitious but will ſometimes favor Juſtice. 188
Apt to live under the Power of their Luſts. 190
Wherein juſt ones will find their Honor and Security. 193
Where lawful ones have prov'd equal to the worſt Uſurpers. 189
Whoſe Condition moſt miſerable, and why. 201, 202
Some have experience as men, but not otherwiſe. 202
The Name can't make a King, unleſs he be one. 205, 374
Have a Power of granting Honors, Immunitys, &c. out of the publick Stock. 208, 220, 350, 385
None to have more Power or Abilitys to perform his Office than Moſes. 209
Advanc'd by abjuring their Religion. 213
Under the happy Inability to do any thing againſt the Laws of their Country. 213, 214, 218, 226, 280, 309, 322, 394
Where they have their ſhare (and the Senate theirs) of the ſupreme Authority, the Government is beſt ſupported. 214
Have found out now eaſier ways of doing what they pleaſe. 219
How there would be as many Kings in the World as men. 221
If they have no Title, they muſt be made ſo either by Force or Conſent. 222, 233
The conſequence of being unaccountable. 225
Have no other juſt Power than what the Laws give. 227, 250
The ſafety of their Kingdoms, their chiefeſt Law. 228
The firſt were of the accurſed Race, while the holy Seed had none. 230
By what wicked means many of them have come in. 231
Of Iſrael and Judah under a Law not ſafely to be tranſgreſt. 238
Why thoſe of Iſrael committed many extravagances. 238
Judg'd by the Great Sanhedrin. 239
This ſort of Government the Peoples Creature. 241, 249, 370, 375, 399, 410, 411
Not to claim the Liberty of doing Injuſtice in virtue of their Prerogative. 242, 243
Bound up to the Laws as to matters of Property. 247
Not to be too powerful, nor too rich. 249, 250
Kings of Iſrael, tho they led vaſt Armys into the Field, ſeem to have poſſeſt but little. 251
What their Government ought to be. 253
Of England reign by Law, and are under it, and why. 258, 261, 264, 404
What will indear them to their People. 262
The Sovereign Power often meant by this Name. 263
What meant by lawful Ones. 265, 283, 290
Why thoſe of Judah could make no Laws. 269
May be fear'd by thoſe that do ill. 269, 270
How made in the Saxon times. 270
What thoſe of the greateſt Nations have ſuffer'd. 274
What is that King which never dies. 283, 403
Cannot mitigate or interpret Laws. 287, &c.
When ſaid to become perjur'd. 286
Not Maſters but Servants of the Common-wealth. 290. *vid.* 214
Can't be Interpreters of their own Oaths. 294
Compel'd to perform the conditions of Magna Charta. 296, 297
May reſign, if they will not obſerve their Oaths. 299, 300
Next in Blood, generally cannot be ſaid to be Kings till they are crown'd. 301, 303
How he is not to be heard. 324
The Regal Power, not the firſt in this Nation. 329
Where the ſame Power that had created this Government, aboliſh'd it. 331
What our Anceſtors did with relation to them. 331
Judges rightly qualify'd are to inſtruct them in matters of Law. 337
Wherein they are equal to other men. 338
None as ſuch have the Power of judging any. 338, 340, 401, 402
Where they ceaſe to be ſo, and become Tyrants. 340
Their Power not reſtrain'd, but created by Magna Charta and other Laws. 343
What is natural for the worſt of them to do. 344
The Norman, had no more Power than the Saxon, and why. 349
Tacitus ſays, they were taken out of the Nobility. 350

Kings, ſaid to be choſen, or made, and ſometimes depos'd *by their Great Councils.* 356, 384
Never Maſters of the Soil of England. 357, 370, 371
Why they ſpeak always in the plural number. 359
The Titles of ours examin'd into. 362
Whom the Parliament have made are lawful, or we have had none for theſe 700 *Years.* 362
Their Power of calling Parliaments was given to them. 363, 383
Naturally delight in Power, and hate what croſſes their Wills. 366, 413
The moſt abſolute Princes in the World never had this Name. 368
Some ſubject to a Foreign *Power, ſome* Tributary, *and the* Romans *had many depending upon them.* 369
The Acts of one de facto, *conſider'd.* 374, 375
Wherein the Eſſence of a King conſiſts. 374
Deter'd from endeavouring to ſeduce any of their great men from their Duty. 381
Who are a great calamity to a Nation. 383, 419
Who only are the Heads *of the People.* 388, 390, 391, 392
If their Actions are to be examin'd, and their Perſons puniſh'd. 396
None leſs capable oftentimes of forming a right Judgment than they, and why. 397
Nor can be preſent in all their Courts. 401
Don't ſtipulate for themſelves, but their People. 402
In what caſes they are perpetually Minors. 403
Their Power not univerſal, for many things they cannot do. 403
May in ſome degree mitigate the vindictive Power of the Law. 404
The advantage of their being reſtrain'd. 407
Not created to make Laws, but to govern by them; and what is ſignify'd by le Roy le veut. 417, 418
Are ſworn to paſs ſuch Laws as the People chuſe. 417, 419
King's-Bench, for what end eſtabliſh'd. 340
The King that renders Juſtice is always there, &c. 403
Knight's Service, what. 352
Knighthood, the Dignity of it, and what was accounted a degrading. 352, 353
Knights of Shires *in the* Saxon *times.* 353

L.

LAWS, the prevalency of them over Sovereign Commands. 2, 9
Who beſt obeys them. 4
The end of them is to enjoy our Libertys. 9, 10, 262, 330
Inveſt Magiſtrates with Power for the publick good. 34, 61
Of England *acknowledg one only Heir.* 38, 62
Said to be written Reaſon. 55
Have in 'em a conſtraining Force. 74
To whom the Power of making them belongs. 75, 76, 281
Are the meaſure of Power. 76, 78, 90, 208, 219, 403, 404
Of each Country create a Right to the Perſon that governs it. 77
Preſcribe Rules how Power ſhould be tranſmitted. 78
Where good ones do no good. 92, 231
To be ſuted to preſent Exigences. 103, 120
Make no diſtinction of Perſons. 125
Lex perduellionis. 127
Made in a ſort uſeleſs by integrity of Manners. 129
Abhorrers *of the Dominion of it.* 133
Inſtituted for the preventing of Evil. 154, 159, 214, 300
Thoſe that go beyond them act therein as private Perſons. 156
Who moſt reſtrain'd by them. 158
Subſiſt by executing Juſtice. 159, 230
Concerning the Succeſſion. 166, 280
Tricks at Law to put men to death. 168, 192
When in force, men of Wiſdom and Valor are never wanting. 176
When they were overthrown. 188
The Deſpiſers deſtroy'd without Law. 210, 214
Don't always go by plurality of Voices. 217
Of every place, ſhow the Power of each Magiſtrate. 225
Were before Kings. 229
Proofs hereof. 230, 278
Of God, not to be abrogated by Man. 239
Our Kings can make none of themſelves. 261, 287, 366
We know none but thoſe of God and our ſelves. 262
Are not made in vain. 264
Some neither juſt nor commendable; Inſtances thereof. 272, 273, 336

An Alphabetical TABLE.

Laws; *the directive Power, which is certain, has a Power over the Conscience.* 273
The Sanction that deserves the Name of a Law. 274, 281, 320, 333, 336
To what end made as to Magistrates. 278, 279
Princes and Nations both Gainers by the due observance of them. 280, 283, 299, 300, 394, 395
That is not a State or Government which has them not. 281
Athenians *not without them when they had Kings.* ibid.
How said to be above the King. 283
Can only be alter'd in Parliament. 287, 288, 336, 345
For what reason establish'd: an Encomium. 288
Who violate those of Nature in the highest degree. 292
Of ones Country to be submitted to. 302
Of Nature, eternal. 302, 306
By whom the rigor of it is to be temper'd. 323
None made by man can be perfect. 326, 336, 337, 343
By them Kings became first what they were. 331, 343
Those good for one People, that are not so for all. 334, 335
The Statute of Henry *VII. concerning a King* de facto, *for what end made.* 374, 375
Plain ones have bin industriously render'd perplext. 382
Good ones prescribe safe Remedys against the Mischiefs of ill Magistrates. 393, 394
Where they are merciful both to ill and good men. 394
Should aim at perpetuity. 406
The Mischiefs effected by a Persons Word having the force of a Law. 407
When they may be easily overthrown, it will be attempted. 414
What gives the Power of Law to the Sanctions under which we live. 416
Leagues, don't imply absolute Equality between Partys. 80
With conquer'd Nations. 106
League-Factions and Wars of the Hugonots. 119, 120
How faithfully they have bin observ'd. 145
Men cannot too much rely upon them. 145, 146, 147
Those that make such as are detrimental to the Publick are punishable. 157
Leagues, Made against the Hollanders. 266
Of Joshua *with the* Gibeonites *gain'd by deceit.* 298
Made on a national, not personal Account. 402
Learning makes men excel in Vertue. 97
Said to make men seditious, but disprov'd. 91, 123
Legislative Power of Rome *and* Sparta *continu'd in the People.* 104, 108, 269
When it came to be scorn'd. 106
The Magistratical Power receives its Being and Measure from hence. 277
Can't be confer'd by the Writ of Summons, but must be essentially and radically in the People. 409
Is always arbitrary. 414
Only trusted in the hands of those who are bound to obey the Laws that are made. 416
The King can't have it in himself, nor any other part of it than what is formal. 418, 420
Legislators should always be of the wisest men. 74, 75
Wherein their Wisdom consists. 121
Wherein they shew themselves wise and good. 414
Legitimacy contracted. 79
vid. Bastardy.
Some Children, tho born in Wedlock, utterly rejected as being begotten in Adultery. 310
Lewis *XI. his subverting the Laws of his Country.* 211
XIV. accounted his not being able to act contrary to Law, a happy impotence. 309
Liberty, the Notions thereof, and from whence. 3, 5, 11
Natural, the consequence if remov'd. 5
Wherein it solely consists. 9, 290
Filmer's *notion of the greatest Liberty in the World.* 9
Oppugners of publick Liberty. 10
Universal asserted, and what that is. 15, 21, 38, 65
The Assertors thereof have God for their Patron. 52, 132
Produces Vertue, Order, Stability. 92, 123
The loss of it in the Roman *Empire.* 95, 96, 98, 99, 107, 111, 126, 329
The Mother and Nurse of Vertues. 95, 98, 111, 141, 181, 188, 195
Made the most vertuous People in the World. 112

An Alphabetical TABLE.

Liberty, when ſubverted, the worſt men thrive beſt. 125, 126
How our natural Love to it is temper'd. 133
None ſought it but with ſome reſtraint. 135
What the Love of it inſpires. 140. *v.* p. 123
At home, and War abroad. 141
When this is loſt, Kingdoms and States come to nothing. 149. *v.* 98, 111, 112
Patricians *the beſt Defenders of it.* 153
The way to recover it. 160
Can't be preſerv'd, if the Manners of the People be corrupted. 180
None remain'd in Rome, *when* Sylla *reſign'd his Power.* 188
When loſt, excellent Spirits fail'd. 194, 195
A People can deſire nothing beſides it. 207
Can't ſubſiſt, if Vice and Corruption prevail. 219
Is a Right common to all. 220, 221
God gave the Iſraelites *this Law.* 240
Who have no true ſenſe of it. 245
Our Anceſtors left us the beſt Laws they could deviſe to defend it. 262
All by the Law of Nature have a Right to their Libertys, Lands, Goods, &c. 292, 358
What Principles make men Lovers of it. 311
None can ſubſiſt where there is an abſolute Power above the Law. 318
Where 'tis deſtroy'd by the Prerogative. 319
Of a People, naturally inherent in themſelves. 330, 358, 370
The value our Anceſtors ſet upon theirs. 336, 371, 412
None has better defended them than this Nation. 342, 412
To it Tacitus *attributes the* German *Bravery.* 347
What is the utmoſt Act of it. 349
The exerciſe of the natural Liberty of Nations, in the ſeveral Limitations of the Sovereign Power. 366
Of a People, the Gift of God and Nature. 369
Forfeited or reſign'd. 370
No Veneration paid to Magiſtrates can leſſen the Liberty of a Nation. 372
Nothing valuable to it in the Opinion of the Romans. 377
Eaſy to get Partizans to make good by force the greateſt Violations of it. 380
Liberty, how to uſe ones own with relation to the Publick. 397
Liberty with a Miſchief. 409, 410, 411
Of thoſe who act in their own Perſons, and of thoſe who ſend Delegates, is perfectly the ſame. 411
That for which we contend as the Gift of God and Nature, remains equally in all. 411
Lineal Subjection never learn'd from Moſes. 58
Succeſſion, where not follow'd. 78, 79
London, *the Privilege of the* Common-Hall. 385
Lord Paramount, over whom. 13, 14, 15, 16
From whence he muſt come. 21
None by nature over his Brethren. 63
The Miſchiefs they both do and ſuffer are very great. 218
Lords, how they have loſt the Authority which they had formerly. 382
Lord's-day, not to be ſpent in Sports and Revellings. 315
Love to ones Country, Common-wealths have it moſt. 139, 141, 142
The happy effects of it. 140
A Reſolution to die for, or live with it. 140, 144, 146
The way to make People in love with it. 146, 172, 196
This now turn'd into a care of private Intereſt. 151, 152
The Behaviour of thoſe that are Lovers, &c. 172, 195
Occaſions ſometimes Wars and Tumults. 186
Loyalty, thoſe that boaſt loudeſt of it, moſt apply it the wrong way. 219
Lucullus, *his little Army put* Tygranes *with* 200000 *men to flight.* 98
Luxury of the Romans, *the occaſion of their ruin.* 114
Brought into Rome *by* C. Manlius. 128
Expoſes the vertuous to ſcorn. 181
When in faſhion, the deſire of Riches muſt increaſe. 183
The braveſt Nations moſt enſlav'd by it. 252
Lycurgus, *his Laws receiv'd their Authority from the General Aſſembly.* 269, 281
Abſurd to think of reſtoring his Laws. 334
To what the long continuance of them is attributed. 406

An Alphabetical TABLE.

M.

MAcedonian *Kings, their Power was but ſmall.* 98
Their Army overthrown by Paulus Emilius. 147
Vid. Monarchy.
Machiavel, *his admirable Saying.* 92, 205
Magi, *who uſurp'd the Dominion of* Perſia *after the Death of* Cambyſes. 155
Magiſtracy, can have no Intereſt diſtinct from the publick. 48, 129
Its Office is to execute the Law. 48, 154, 320
If the People be baſe, &c. it can't be ſupported, be the Ruler never ſo perfect. 132, 164
Whether it be that Power which above all reſtrains Liberty. 133
Strangers admitted into that of Rome. 142
The effect of regal Power committed to an annual or otherwiſe choſen Magiſtracy. 148, 194
None can have the Right of it that is not a Magiſtrate. 155
Where it had nothing to do in ſpiritual things. 259, 260
The Ordinance both of God and Man. 268, 275, 276, 277
Circumſcrib'd by ſuch Rules as can't be ſafely tranſgreſt. 270, 394
Where Obedience is due. 273, 274, 275
On what the Right and Power of it depends. 275
The Nature of it. 372, 373
None now in being, which owes not its Original to ſome Judgment of the People. 400
Magiſtrates, by whom conſtituted. 6, 54, 61, 224, 317
To what end ſet up. 32, 48
Miniſters of God. 48, 257
How they are helpful to Nations. 55, 85, 383, 390
Under ſeveral Names and Limitations. 78, 225
Jewiſh, *wherein like the Dictators of* Rome. 86
Puniſhable with Death by the Roman *Law.* 127, 156, 157
Annual Election of them. 140
Have enjoy'd large Powers, that never had the name of Kings. 158
How to be reſtrain'd. 159, 278, 279, 394
A particular Character of good and evil ones. 312, 313
Magiſtrates, when they were temporary and occaſional. 331
Walk in obſcure and ſlippery Places. 394
What to be done to thoſe who deſpiſe the Law. 395
Wherein their Strength is. 398
The firſt may be vertuous, but their Succeſſors may ſoon be corrupted. 414
Magna Charta *grounded on K.* Alfred's *Laws.* 9
The Jews *had none ſuch.* 258
What it obliges the King to ſwear to. 283
Puts every thing on the Laws of the Land, and Cuſtoms of England. 288
Is only an Abridgment of them. 296, 356
Not the Original, but a Declaration of the Engliſh *Libertys.* 343, 414
The Rights the Nation have reſolv'd to maintain. 356
Male-Line examin'd. 40, 167, 267
Malice, is blind. 127
Seditions, &c. ariſe from thence. 152, 153
Mamalukes, *their great defeat near* Tripoli *by* Selim. 128
Accounted themſelves all Noble, tho born Slaves, 356
Man naturally free. 3, 19, 369, 370
Every one Chief in his own Family. 13, 18
Can't overthrow what God and Nature have inſtituted. 17, 262, 263
Creates Governments and Magiſtrates. 20
None knows originally from whom he is deriv'd. 23, 25, 36, 302
Whence his Miſery proceeds. 55
Wants help in all things. 55, 406
What makes a natural difference among men. 57
All ſubject to Error. 106, 165, 280
Enters into ſome kind of Government by Reaſon. 134
Follow what ſeems advantageous to themſelves. 196
What every one ought to be. 231
None can ſerve two contrary Intereſts. 255
Are all by Nature equal. 327
Where every one is a Magiſtrate. 383
Mannors, &c. enjoy'd by Tenure from Kings. 359
Marriages, often declar'd null. 79
Of Plebeians *with* Patricians. 103, 118, 121
Where prov'd of no force to legitimate Children. 310

An Alphabetical TABLE.

Marriages, a Power must be lodg'd ſomewhere to decide them. 310
Maſters, how far their Commands are binding. 314, 315
Only to decide Conteſts between them and their Servants. 398
Maxims, nothing to be receiv'd as a general one, which is not generally true. 292
Mazarine, *the ways of his Advancement.* 184
Medices, *of the Title of that Family to* Tuſcany. 378
Members of Parliament ſent to ſerve for the whole Nation, not for a particular Borough, &c. 410
Inſtructions are often given to them. 412
Have no Power before they are choſen, nor ever could, if thoſe that ſend them had it not in themſelves. 413
Muſt take care that the Common-wealth receives no detriment by their Votes. ibid.
A few poſſibly may be corrupted. 415
Mercenary Army, vid. Soldiery.
Their Buſineſs is to keep on their Employment. 138
Soldiers, always want Fidelity or Courage. 147, 198
Courtiers, will expoſe not only Honors, but even Juſtice to Sale. 182, 183
Wretches, their Power at Court. 184
Auguſtus Cæſar *had thirty Legions of them to execute his Commands.* 329
Merit, men rarely make a right Eſtimate of their own. 165
The way of Advancement to Honor. 194
What preſerves, and what aboliſhes it. 196
Mickle-Gemots *were General Aſſemblys of the Noble and Free men.* 348, 354, 384
They ſet up ſeven Magiſtrates over the Heptarchy. 349
Of what they were in the beginning of the Saxons *Reign.* 384
Miltiades, *his Deſire to wear an Olive-Garland for his Victory at* Marathon, *and the Anſwer given to him.* 222
Miniſters, according to the Temper and Genius of the Prince. 7
Of the Devil, who. 37, 48, 51, 267, 273, 274
Of God, who. 48, 49, 118, 192, 267, 273, 274
Muſt receive their Dignity from a Title not common to all. 269
Every Man by his Works will declare whoſe he is. 272
Miniſters, the Devils of a lower Order. 314
Of God, how they may become the worſt of men. 322
What ſort have ſeldom eſcap'd Puniſhment. 324
Of the Devil, have always carry'd on their Deſigns by fraud. 388
Miſtakes in Puniſhments carefully repair'd by Honors. 106
Seditions, Tumults and Wars ariſe from thence. 152
None in Sparta *after* Lycurgus's *Laws were eſtabliſh'd.* 153
That ſome have fallen into by the Form of Writs, ſummoning Perſons to appear before the King, rectify'd. 401
Mithridates, *what reckon'd the greateſt danger of War with him.* 98
Monarchs, who have their Right from God and Nature. 9
Ought to conſult the publick good. 34
How moſt came to their Dignitys. 117
Are not above the Law. 291
Monarchy, Paternal, over whom exercis'd. 17
Whence ſo call'd. 19
For whom beſt. 53
No natural propenſity in Men and Beaſts to it. 82, 83
How Ariſtotle *commends it.* 90, 91
Mix'd, regulated by Law. 93, 96, 129, 135
Of Rome, *at firſt not abſolute.* 108
Moſt have ſuffer'd far greater Changes than Rome. 110
Macedonian *fell all to pieces after the Death of* Alexander. 119, 163
In what ſenſe ſaid to be natural. 132
A peaceable one in Peru *for* 12 *Generations.* 164, 165
The French *has bin full of Blood and Slaughter.* 172, 173. *v.* 137
The gentleſt more heavy than any Common-wealth. 175
All ſubject to Civil Wars. ibid.
Well regulated, when its Powers are limited by Law. 207
The Juſtice of them eſtabliſh'd by common Conſent. 208. *v.* 72, 73, 80, 137, 155
Why ſo call'd. 216. *v.* 117, 123
Nothing in the Nature and Inſtitution of it that obliges Nations to bear with its Exorbitances. 232
What ſort was diſpleaſing to Samuel, *and a rejection of God.* 240
Paternal, overthrown by Filmer. 249
Not univerſally evil. 253

Monarchy, where it is regular, Kings can neither make nor change Laws. 283
None eſtabliſh'd among us in Julius Cæſar's *time.* 331
Mix'd, what the beſt way to ſupport it. 381
What has given Beginning, Growth and Continuance to all the mix'd ones in the World. 407
That not free, which is regulated by a Law not to be broken without the Guilt of Perjury. 416
When the mix'd Monarchys began to be terribly ſhaken. 418
Mony, Charles *VII. of* France *rais'd it by his own Authority.* 418
Moſes *and* Aaron, *the firſt Rulers of the People, neither of the eldeſt Tribe, nor eldeſt Line.* 23
His admirable Gifts. 25, 92, 282
Had not the Name, or Power of a King. 61, 85, 230
Gave the People leave to chuſe their own Magiſtrates. 121
Divided the Hebrews *under ſeveral Captains.* 143
Power inſupportable to him. 282
His Character. 209, 284, 390
Whether we ought to conform to his Law. 335, 336
Multitude, what Right it has to change a Tyrannical Government. 12
Compos'd of Free men; the Power that is plac'd in them. 65
None can be ſeditious till a Commonwealth be eſtabliſh'd. 70
Thoſe that enter into Contracts, act according to their own Will. 71
Where it brings Confuſion. 146
Is the Glory and Strength of every Prince. 191
May have its Fears as well as Tyrants. 207
Confers on the Prince all the Power he has. 221
What is natural thereto in relation to Government. 224
Murderers wilful, the Horns of the Altar gave no Protection to ſuch. 269
Myſterys of State. 6

N.

Names, are not eſſential to Magiſtrates. 368
Of Sovereign Lord, &c. *conſiſtent with Liberty.* 372, 373
Nothing of Majeſty among the Romans *and* Grecians *to a ſingle Perſon.* 373
Names, there muſt be ſome us'd in all publick Tranſactions. 402
Not to be regarded ſo much as the Power. 411
Nations, what their Rights are. 6, 298, 321, 326, 341, 343, 345, 366, 380, 411, 420
That went from Babylon, *how many.* 16, 18, 20, 21, 22, 28, 36, 66, 220
Natural for them to chuſe Governors. 51, 58, 61, 137, 277, 321
Northern, *their Governments how inſtituted.* 69, 214, 352
Free, never conquer'd but with difficulty. 98
Oppreſs'd, can never grow wanton. 107
None ſafe without Valor and Strength. 109, 345
Foreign, *call'd in by ſome Princes to deſtroy their own People.* 189
Some ſell their Children. 147
Slight matters ſometimes bring them into Confuſion. Inſtances thereof. 162
When they are moſt unquiet. 170, 171, 185
The wiſeſt have ſet bounds to their Princes Power, &c. 218, 225, 250
Their Libertys are from God and Nature. 220, 233
Where they have taken the extremeſt Courſes. 225
Owe nothing to Kings till they are Kings. 243, 304
What ſet limits to their Patience. 245, 246
What inclines them to ſet up Governments. 246
When All were govern'd by Tyrants. 255
Their Safety ought not to depend on the Will of their Princes. 288
What are free and what not. 318
Thoſe that had no Kings had Power. 330
What ſhews beſt their Wiſdom and Vertue, or their Vices and Folly. 335
Wherein their failure has bin too frequent. 338
This divided into ſeven *Kingdoms.* 349
None can have a Power over any, otherwiſe than de jure, *or* de facto. 366
Obedience due from the whole Body, what. 376
Their Libertys don't riſe from the Grants of Princes. 378
Delight in the Peace and Juſtice of a good Government. 379
What the moſt ready way to effect their Ruin. 382, 399, 400, 406
When oblig'd to remove the Evils they lie under. 396

Nations, none can have an Equal within it ſelf. 398
One that is powerful cannot recede from its own Right. 398
What King none ever wants that has a Sovereign Power. 403
What thoſe ought to do that are ſo happy as to have good Kings. 406
Great Ones never ordain'd by God to be Slaves. 411
Naturalization, Rome *was for a general One.* 142
Negative Voice, how far it is ſaid to extend. 344
Le Roy s'aviſera, *what meant by it.* 373
Nero, *the Power of the State over him.* 12, 261
His Endeavour to make a Woman of a Man. 43, 50
To tear up Vertue by the Roots. 50, 126, 191
Condemn'd to be put to death. 127, 274
What ſort of Vermin be encourag'd. 129
Set the City on fire. 159, 189, 272
Dy'd by the hand of a Slave. 163, 261
His Character. 285
His Madneſs not to be cur'd but by his Death. 395
Nimrod *the firſt King.* 15, 16, 20, 50, 229
Uſurp'd the Power over his Father, &c. 17, 232
Heir to no man as King. 27
Slain by Ninus. ibid.
No Right can be deriv'd from him. 36, 38, 42
Erected his Kingdom contrary to paternal Right. 220, 330
Noah, *bore no Image of a King.* 15, 330
His dividing of Aſia, Europe *and* Africa *among his Sons.* 26
When he went out of the Ark, God gave him a Law ſufficient for the State of things at that time. 230
None but his right Heir can have a Title to an univerſal Patriarchal Right. 265, 302
Nobility of Rome *extirpated.* 109
The Roman *Power chiefly in them after the expulſion of the Kings.* 118
Hold the Balance between the King and the Commons; when and how weaken'd. 172, 175
Of Arragon's *Saying to their new-made King.* 216
What our Anceſtors meant by them. 350, 356, 360
The Strength of the Government when plac'd in them. 350, 382
Nobility, ſometimes call'd infinita Multitudo. 352, 354, 355
Knighthood always eſteem'd Noble. 352
In France, *&c. of what eſteem.* 353
The preſent Titular has no Affinity to the antient Nobility of England. 354
Of Venice *and* Switzerland *what makes them ſo.* 355
Their Vertue and Power formerly kept the Kings within the limits of the Law. 381
Many have loſt their Eſtates and Intereſt now. 382
Noli proſequi, *ſaid to be annex'd to the Perſon of the King.* 403
Norman *Kings, ſwore to govern by the ſame Laws as the* Saxons *had.* 349, 415
Notions, common, what are agreed to by all Mankind. 34

O.

OAth of Allegiance us'd in the Kingdom of Arragon. 68
Agreements between Prince and People always confirm'd by them. 158
How Kings may be abſolv'd from them. 294, 295
Its force conſiſts in the declar'd ſenſe of thoſe who give it. 295, 377
Scarce any Prince broke it but to his Ruin. 297
All either voluntary or unvoluntary. 278
Ought to be perform'd in reverence to the Religion of it. 297, 300
What to be done, where the Obſervation of it would be grievous. 299
How the Judges are bound by theirs. 323, 324
Wherein that of the Crown had not bin kept. 325
What Kings are oblig'd to do by them. 340, 414
How far thoſe of Allegiance bind private Perſons. 378
Obedience, Active and Paſſive. 8, 316
Where due and not due. 33, 49, 67, 228, 232, 243, 276, 277, 376
How far a good man will pay it to his Prince. 180, 181
The effects of its Diſciplin among the Romans. 195
To higher Powers, St. Paul's *words favour all ſorts of Governments as well as Monarchy.* 266, 267, 268, 276, 277
Why it ſhould be paid. 272
Is not due to that which is not Law. 273, 274, 275, 314

An Alphabetical TABLE.

Obedience, the Prince owes it to the Laws as well as the meaneſt Subject. 283
Due to Parents, from whence it ariſes. 370
Simple and unconditional, to what King we all owe it. 403
Object, the only worthy one of man's deſire. 55
Obligation ariſing from Benefits can only be to thoſe who confer them. 38
Of Gratitude, to whom due. 233
How far the extent of it can be known. 243
Henry *VIII. own'd it lay on him rightly to uſe the Power with which he was entruſted.* 287
Occupation, the meaning of the word. 156
Offa, *vid.* Saxons.
Officers, great Ones in Armys think only of enriching themſelves. 198
How their Authority and Power is to be regulated. 277
Ought to have their Places for the Peoples good. 341
Frequently put to death by the Athenians, *&c.* 385
Offices, what fits men for the execution of them. 57
Thoſe that buy will make the moſt of them. 183
Or muſt be turn'd out as a Scandal to the Court. 183
By what means they have bin often obtain'd. 184
Oppreſſion, ſometimes makes Nations outrageous. 107
Does People ſuch Injury, as can never be pardon'd. 232
Order, when inverted, introduces extreme Confuſion. 55
Wherein it principally conſiſts. 92. *v.* 55, 64, 66, 70
The effect of it. 93, 97
Good, not wanting in Venice. 98
Nor among the Romans. 100
Being eſtabliſh'd, makes good men. 148
The beſt ſometimes ſubverted by Malice and Violence. 332
Ordinance, what is Blaſphemy to impute to God. 36
Civil and Human. 71
God's general, and the particular Ordinance of all Societys. 154
Of God, appointed for the diſtribution of Juſtice. 159
Several tending to the ſame end. 268
Original, no man knows his own. 25, 30, 32, 223, 302
Contract. 54, 55, 56, 57, 58, 59, 66, 67, 69, 71, 72, 226, 244
Original Right muſt be regulated according to it. 222
Where it would be of no value. 224, 225
Of Nations almoſt wholly unknown to us. 229
Ours is deduc'd both from the Romans *and* Saxons. 347, 371
Oſtraciſm *of the* Athenians, *no Diſhonor, nor accounted as a Puniſhment.* 123
Nothing favor'd ſo much of Injuſtice. 205
Otho, *had the Empire given him, by whom.* 163
Was a Self-murderer. ibid.
Why he was advanc'd. 166
Outlaw, or Lawleſs, *often apply'd to the Wicked, but never to the Juſt.* 230

P.

Papal Power, the foundation of it. 6
The Civil Diſſenſions in Germany *proceeded from thence.* 279
Pretends to the Power of Abſolution. 295
Her Excommunications, bruta fulmina. 296
Papiſts, their kindneſs to the Proteſtants inſtanc'd in. 408
Paradoxes, many of them true. 51
Pardons, ſaid to be only the Bounty of the Prerogative. 324, 403
The meaning of a general one at a Coronation. 325
Where granted againſt the Oath of the Crown. ibid.
Granted by Act of Parliament. 326
None for a Man condemn'd upon an Appeal. 403, 404
The King can't always pardon in caſes of Treaſon. 404
Parents, how oblig'd by Nature to ſeek their Childrens good. 228, 231
Parliaments, the Inſtitution of them, and for what. 69
The ſettling and transferring of Crowns lodg'd in them. 72, 116, 223
In France, *ſet up to receive Appeals from other Courts, and to judg Sovereignly, now of little uſe.* 120, 213
A free and well regulated one to chuſe Miniſters of State. 135, 136
Their great Power in all the Kingdoms that came from the North. 211
Declar'd Henry *III. of* France *fallen from the Crown.* 212
How they may be made uſeleſs. 251
England *never wanted them.* 263

Parli-

Parliaments, the word Parliament *came from the* French, *but the Power was always in our ſelves.* 269
Henry *VIII. confeſſes them to be the Law-makers.* 287, 342
Doubtful Caſes refer'd to them. 288, 324, 325
By Writs compel the King to perform the Conditions of the Great Charter. 296, 297
Have given the Crown to whom they pleas'd. 302, 306, 307, 345, 352, 356, 362, 363, 364
Judg of Diſputes ariſing from the Children of Royal Marriages. 310, 342
Have the ſole Power to explain and correct Laws. 326, 344, 345, 352, 375
Ought of Right to be annually. 344, 388
From whence they derive their Authority. 346, 363, 364, 383—385
Have refus'd to be diſſolv'd till their Work was finiſh'd. 385
Not impeccable or infallible, but leſs ſubject to Error than ſome Princes. 386, 387, 405
Our Lives and Libertys depend upon this Court. 405
What the great Burleigh *and Sir* Tho. Moor *ſaid of their Power.* 412
If they make unjuſt Laws, their Poſterity will ſuffer. 415
How difficult they are to be brib'd. ibid.
To have their Rolls in their Offices, not a mere Ceremony. 417
What Kings have had continual diſputes with them. 419
Partys, what certainly divides the Nation into them. 312
Threaten a national Ruin. 382
Paſſions, every one has 'em, few know how to moderate 'em. 165
Put Princes upon the moſt unjuſt deſigns. 172
The Law is without paſſion. 288
Patents, began long after the coming of the Normans. 351
Pater Patriæ, *the Title thereof conſider'd.* 26, 50
By killing a Tyrant how ſaid to become ſo. 29, 30, 33, 47
Paternal Right, Abraham *arrogated none to himſelf.* 16, 17
Impoſſible to be known. 21, 25, 28, 29, 60
All the Kingdoms of the Earth eſtabliſh'd upon it. 28
Government of Rome *not Paternal.* 32
Can't be confer'd on Princes. 42, 46, 47, 74
To whom it belongs. 26, 62, 63, 249
Paternal Right, in what the Hebrews *had no regard to it.* 221, 232
Is a mere Fiction. 223
Is from Nature, and incommunicable. 227
Patriarchal Right, Women and Children have it, according to Filmer. 2
The Abſurdity of it. 13, 14, 37, 265, 411
All pretence to it deſtroy'd. 16, 20, 22, 26, 346
Muſt accrue to every Father. 18
Either diviſible or indiviſible. 21, 28
Patriarchal Power different from the Regal. 14, 15, 51
Peace, there can be none without Juſtice. 12, 111
Deſirable by a State conſtituted for it. 109
Slaviſh. 110
What men have in their Graves. ibid.
What the Spaniards *ſettled in the* Weſt-Indies. ibid.
The Name of it given to Deſolation. 110, 185, 186, 187
The ſad one which France *enjoy'd for five or ſix Ages.* 171, 172
In Spain *to what imputed.* 174
The Terms offer'd, if good, like to be obſerv'd; if bad, will ſoon be broken. 377
Peers, act for themſelves in their own Houſe. 413
Pembroke, *a late Earl of that Noble Family, his Saying.* 168
People, not originally created for Kings to reign over them. 4
Whether they chuſe Governors. 11, 51, 54, 68, 74, 79
Scripture-Inſtances for the proof of it. 85, 215
The choice of the Conſtitution is from them. 75, 115, 116, 225, 304, 330
Kings receive their Right from them. 77, 223
How God deals with a People when he intends to exalt them. 100
Of Rome, *their ſad degeneracy.* 101
Their Right to Appeals. 104, 105, 108, 115, 127
Acting according to their own Will, never ſet up unworthy men, unleſs thro miſtake. 133
The Body of them the publick Defence. 139, 143
None ever well defended but thoſe who fight for themſelves. 143
In Civil Conteſts they equally ſuffer. 153
Whether to be Judges in their own Caſes. 158

People, when generally corrupted, the Event is always the Erection of a Tyrant. 161, 179
Their Condition where tolerable under very cruel Emperors. 170
Their hating of cruel Princes, and they them. 192
Muſt neceſſarily have all the Power originally in themſelves. 208, 215, 216, 330
Their Right of looking into matters of Government, &c. 237, 284—286, 318, 385, 397, 398
Can never fall into Nonage or Dotage. 291
Did never part with all their Power to Kings. 295
May govern by themſelves. 299
Their whole Body not ſubject to the Commands of the Magiſtrate. 376
In their collective Body always continue as free as the inward Thoughts of a man. 378
They certainly periſh who ſuffer themſelves to be oppreſs'd. 395
That are not free, can't ſubſtitute Delegates. 409
Vid. Nations *and* Multitude.
Perfection, ſimple and relative. 335
Perſecution among the firſt Chriſtian *Emperors.* 96
Perſia, *their Kings reign'd from the* Indies *to the* Helleſpont. 26
The Decrees of theſe Kings paſs'd for Laws. 76
The juſt Sentence of the Princes about Daniel. 94
Torn to pieces by the fury of two Brothers. 122
Under what ill Conduct and Diſcipline their Army was. 147
Petition, the haughty Romans *condeſcended to join in one with their Tribunes to their Dictator.* 372
Pharamond, *his Race in* France, *an account of it.* 306
Pharaoh, *his Monarchy an Act of Tyranny.* 23
Phariſees, *their Superſtition.* 315
Philo, *to what he imputes the Inſtitution of Kingly Government in* Iſrael. 84, 85
Philoſophy true, perfectly conformable with what is taught by men divinely inſpir'd. 56
Phocion, *of his Death.* 124
Phœnicians *ſettling in* Africa, *brought their Liberty with them.* 370
Plato, *a Commendation of him.* 51
His Principles of Government. 54, 57, 61
Plato, *his Opinion, who ought to be advanc'd above all.* 57, 85, 208
Plays, the conſequence of 'em. 101, 111, 129, 137
Plebeians *elected to the chief Magiſtracys.* 103, 118, 121, 176
Their Jealouſy of the Patricians. 152
Polity, its ſignification. 59
Political Science abſtruſe. 82, 83
Pompey, *his Cauſe more plauſible, but his Deſigns as bad as* Cæſar's. 188
The firſt Step to his Ruin was by violating the Laws. 214
Popular Government for what People beſt. 53
No where diſprais'd by Ariſtotle. 91
The extent of its Conqueſts. 92, 96, 112, 113
Of Rome, *how ſupported.* 112, 113
Something of Monarchical in them. 117
Can never be upheld but by Vertue. 130, 181
Poſſible, but not eaſily to fall into Corruption, &c. 132, 179, 180, 184
Improperly what, and what in the ſtricteſt ſenſe. 132
Preſerves Peace, and manages War beſt. 136, 137
Every Man concern'd in them. 139, 188, 193
States remarkable for Peace. 145
Excellent men are generally choſen in them. 149
What Seditions are ſeldom ſeen in them. 152, 153
How ruin'd. 161
Incourage Induſtry. 187
Never hurt private Perſons but thro Errors. 188, 207
When they began to appear in the World. 259
Obedience due to them as well as to Monarchys. 266
Portugal, *who accounted King thereof by the* Engliſh *Court.* 402
Poverty, no Inconvenience in it, if Vertue be honor'd. 181
The miſerable Condition of Greece, Italy, *&c.* 185, 186, 187
When it grew odious in Rome. 252
Power (all juſt Sovereign) from the People. 47, 68, 70, 78, 172, 215, 216, 224
How he that has it is the Miniſter of God. 48, 49, 309, 322, 344, 380
Not an Advantage but a Burden. 60, 61
Delegated, to whom refer'd. 68, 69, 70
The Root and Foundation of it. 70

Power, Civil, an humane Ordinance. 71
Of the People subject to no Rule but their own Will. 105
Of the Romans *after the expulsion of the Kings, chiefly in the Nobility.* 118
Naturally of a fierce and aspiring Temper. 130, 131
Sovereign and limited. 156, 172
What, in all the Kingdoms peopled from the North. 211
Most safe when least envy'd and hated. ibid.
If it has bin divided, it may be so in infinitum. 222
The Roman *Emperors endeavour'd to make their Power hereditary.* 223
The ill effects of unlimited Power might cause it to be moderated. 229
What may be lawfully resisted. 235
What Prince ought to have it, and what not. 261
Wilt thou not be afraid of the Power? *what meant by it.* 266
Directive and Coercive. 273, 274, 277
Why it ought to be limited. 280
Of the King is the Power of the Law. 287, 338, 344
What requisite in every State. 292
None can be just but what is good. 328
Over Nations must either be de Jure, *or* de Facto. 366
Of the King various according to the Constitutions of every State. 367
Nothing can make that inherent, which is only delegated. 385
Restrain'd, when it began to grow insolent. Instances. 393
Where 'tis not universal, it is not inherent. 403
How that of every County, City and Borough of England *is regulated.* 410
What must be in those that act by a delegated Power. 413
Where it is plac'd by well constituted Governments. 414
Practice cannot declare the Greatness of Authority. 238
The consequence of such a Doctrin. 239
Of Nations to their Sovereigns. 372
Prayers and Tears the only Arms of the first Christians. 257
Preferments, by what means men now rise to them. 184
Given to those that were most propense to Slavery. 194
Where obtain'd only by Vertue. 196
Prerogative of Kings, what. 2, 57
Of Birth. 25
Hereditary of Dominion. 52
Prerogative, all granted by Consent of the whole Society. 66
What the most glorious. 243, 340
The utmost extent of it, what. 290, 340
Only instituted to preserve Liberty. 319, 386
What is not the gracious Bounty of it. 325, 419
Who thought whatever could be detracted from the Liberty of the Nation, would serve to advance the Prerogative. 419
Princes, ordain'd for the good of the People. 33, 50, 52, 53, 54
Ought to be rich in Vertue and Wisdom. 56, 57, 297
All things vary according to the humor of those that govern. 94, 95, 96
Very few of an inflexible Vertue. 131
Killing one to obtain the Crown. 171, *v.* 33
Easily impos'd on by Pretenders. 182
By setting up their own Interest become Enemys to the Publick. 188, 189, 190, 192, 229
God's Vicegerents, doing their Duty. 191
The best, by what means drawn out of the way of Justice. 124, 285
For they have their Failings. 324
Vertuous ones will have vertuous Courts. 183, 184
Evil ones just the contrary. 129, 131, 181, 182, 194, 195, 196, 290
How they soon lose their Dominions. 150, 151, 170
Seek the destruction of their best Subjects. 171, 192, 267
Some consider Nations, as Grasiers do their Herds and Flocks. 191
May commit many Errors in the beginning of their Reigns, to the ruin of themselves and People. Instances. 200, 201
The Treachery and Perjury of some. 219
What those that govern them instigate them to. 229
How far their legal Power extends. 235
Such as are barbarous to their own People, are usually gentle to the Enemys of their Country. 255
A dangerous thing to arm them with too much force. 279
Bound by their Oaths and Promises. 297, 298
From whence their Power is deriv'd. 344
Not safe to contradict some, tho never so justly. 406

Princes, an unlimited one what compar'd to, and an Instance of such an one in Scripture. 407
Principes, *the extent of the word.* 13, 44, 64, 275, 347, 353, 355
The Sanhedrin *meant hereby.* 209
Principles of all generous Nations before Christ's *time, what.* 4
And Practices the best way to judg men by. 129
Prisoners, ought to pay their promis'd Ransom. 297
Private Person, what Actions denote a Magistrate so. 156, 158
Privernates, *their City taken by* Plautius *the Consul.* 376
Process, Judicial and Legal, what. 154
Or Extrajudicial. 159, 160
Proclamations, are at most but temporary. 405, 409
The danger of their being accounted Laws. 406, 407, 408
Promises, ought justly to be perform'd. 297
Even those extorted by Fraud. A Scripture-Instance. 297, 298
Property, is an Appendage to Liberty. 290
Of our Kings, if they be the Fountain of it. 357
Propositions, ought to be universally true. 10, 16
Filmer's *general one found false.* 27, 192
Proscriptions. 100, 102, 107, 110, 125, 163
Prosperity runs naturally into all manner of Excesses. 107, 128
Men have bin precipitated into ruin by it. 394
Proxys, the way of using them. 71
Proximity of Blood, only regarded in some Places, whether legitimate or not. 167, 365
How Right descends this way. 362
Vid. Succession.
Punishment of supreme Magistrates in three Instances. 155, 156, 157
To exempt all Persons from it, supposes they would be guilty of the worst. 160
Where there is no fear of it. 182, 183
Future, many don't believe or not regard it. 231, 264
Of those the Prince corrupted to desert the publick Cause. 381
Of those that give Princes ill Advice. 385, 404, 405
Whether it ought to fall upon one or a few guilty Persons, or a whole Nation that is innocent. 396
To what Members of Parliament are subject. 410
Punishment, in whom the Power of it is lodg'd. 413
Pyrrhus, *seems equal to either of the* Alexanders. 150
His Answer to him that ask'd who should succeed him. 164

Q.

Qualitys, no more extraordinary in Princes than in others of less degree. 7
What are requisite for chief Magistrates. 32, 35, 52
Few Kings possess all that are requisite. 94
What subsist in a well-order'd Government. 100
The most eminent without Vertue, reputed vile and odious. 104
Quarrels among Princes for the most part begun upon personal Titles. 154, 171, 172, 173
Of Princes, where they have bin decided with their own Swords. 154, 168
What would make a perpetual Spring of irreconcilable and mortal Quarrels. 167
Such as arise between the Nobles *and* Commons *frequently produce good Laws.* 176
Ours with the Dutch. 189

R.

Rawleigh, *Sir* Walter, *reflected on by* Filmer. 362, 363
His Morals no way exact to a well qualify'd Gentleman. 363
Reason, is Man's Nature. 134, 241, 281, 285
Universal, is that to which all Nations owe an equal Veneration. 274
Rebellion, the greatest Empire of the East *overthrown by that of the* Mamalukes. 107
People driven to it by Misery or Despair. 107, 238, 239
There can be no such as that of a Nation against its own Magistrates. 376
What it implys. ibid.
Is nothing but a renew'd War. 376, 379
What is compar'd to Witchcraft. 379
Regal Power, never exercis'd by Abraham. 16
The first Fathers after the Flood *had not the exercise of it.* 220
Regicides, their abominable Sin. 322
Regnum, *the signification of the word.* 229

An Alphabetical TABLE.

Rehoboam, *a ſad account of him.* 95, 201
His Power far from being abſolute. 261
Had good Counſel, but would not hearken to it. 291
Was not the Head of his People, and why. 391
Religion, always dangerous in the times of the beſt Roman *Emperors.* 96
Of the ſame Nature with Vertue. 190
The Principles of the Popiſh. 408
Remedys to Government apply'd according to the Neceſſity of Circumſtances. 103, 120, 393, 394
What Children have, againſt their too ſevere Parents. 231
None to the Hebrews *Crys and Prayers under their Miſerys.* 234
Muſt be try'd, how difficult ſoever. 395
Which moſt fit to be apply'd, the beſt time to apply them, and who the propereſt Judges. 399
Repreſentatives, how, and by whom they came to be deputed. 348, 353, 355, 384
Whether the People ſhould judg of their Behaviour. 385
Republicks, v. Common-wealths.
Reſignation of ones Liberty, what. 370
Of the Crown. 396. *v.* 299, 300
Reſiſtance, in what Caſes juſtify'd. 190, 235, 237, 245
Every one has a Right to reſiſt what ought not to be done to him. 242
Scripture-Inſtances of reſiſting Princes. 264
Reſumption of Lands. v. Grants.
Retaliation, where nothing was more juſt. 94
Kings under this Law as well as People. 239, 240
Revenue, how granted to and ſettled on Kings. 251
Revolts of conquer'd Nations. 106
Of Subjects or Allys. 107, 163
Of Iſrael *in* Solomon's *time.* 162, 238
Of Abſalom. 237, 238
Of the ten Tribes. 239
General of a Nation can't be call'd a Rebellion. 376
Revolutions. vid. Authors.
Rewards and Puniſhments how to be proportion'd. 124
Make men ſubſervient to ill Deſigns. 250, 251
What call'd the Rewards of the vileſt Servitde. 347
Riches, the Root of all Evil. 45, 46, 181, 182
Riches, when they become formidable. 103
Exhauſted by Tribute and Rapine. 108, 182
Deſir'd, to gain Followers. 251
From thence all Miſchiefs enſue. 252
Right, of thoſe Sovereigns that are limited. 156, 158
Proceeds from Identity, not from Similitude. 389
What belongs to every man in all caſes. 397
Right acquir'd, *how to be obtain'd.* 303, 358
How the Reſignation of it to another operates. 358
Hereditary *to the Dominion of the World, no ſuch thing.* 38, 60
Great variety in the deduction of it. 77
Univerſal, *confer'd by God and Nature.* 32
Where it muſt have bin. 35, 37, 42, 67
Muſt be in one, or divided. 36, 37
Where it devolves on particular Nations. 67
Right of Chuſing, *infers a Right of making a King.* 73
Created by an explicit Act of Approbation. 73, 80
Naturally belonging to Nations, not impair'd by the Name of Supreme *given to Magiſtrates.* 156
Of proceeding judicially or extrajudicially againſt all that tranſgreſs the Laws. 159, 235
Right of Occupancy. 32, 33, 46
None can come by Conqueſt. 20
None to be deduc'd from him that had none. 20, 37, 47
Where to be acknowledg'd. 33
Of Jack Straw, Wat. Tyler, Perkin Warbeck. 167
The Continuance of an unjuſt Uſurpation can never create a Right. 224
Right of particular Nations, *how it may ſubſiſt.* 8, 9
Proceeds from the Laws of Nature. 9, 346
Right to Crowns, *what ſaid to be inſeparable from Kings.* 85
Muſt be either natural, created, or acquir'd. 303
Rochel, *how it came to be taken.* 197
Rods and Axes, before whom, and why carry'd. 127, 155, 156
Roman *Emperors, who the beſt and wiſeſt of them.* 180
How they were ſet up. 259

Roman *Empire, deſtroy'd by the Loſs of her Liberty.* 95, 98, 99, 100, 101, 109, 110, 113, 121
Its extent after the recovery of Liberty. 100, 109
Tacitus's *Deſcription of it in its declenſion.* 100, 102
It did not fall on a ſudden, and why. 101
Her Delatores *what ſort of People.* 101
Subdu'd by the moſt barbarous Nations. 102, 110, 126
Perpetually decay'd when it fell into the hands of one man. 108, 109, 110, 209, 248
Its own Prudence preſerv'd it. 112, 121
Romans *had three ways of dealing with conquer'd Nations.* 106
What rais'd them above the reſt of Mankind. 139, 140
They only fit to be ſo, who thought nothing valuable but Liberty. 377
Rome, *whether that Government was paternal.* 32
Overthrew all the Monarchys within their reach. 32, 100, 112
Its extent at firſt. 64, 108
Wherein ſhe excel'd other Nations. 92, 109
When ſhe met with Defeats and Ruin. 93, 194, 195
All that ever was deſirable in her proceeded from Liberty. 99
Never produc'd a brave man ſince the firſt Age of her Slavery. 101
How it was compos'd. 115
Sought her Grandeur by War. 118, 142
Her Fortune when ſhe became a Monarchy. 119
None ſo free from Crimes of wilful Injuſtice, nor guilty of ſo few Errors as ſhe. 124
Her Generoſity. ibid.
The mildneſs of her Government for 300 *Years.* 125, 127, 128
Strugling for Liberty, at laſt was ruin'd by the Barbarians. 126
Not enſlav'd when Brutus *was kill'd.* 148
Was jealous of Valerius Publicola, *and why.* 152
The Peace ſhe had under Auguſtus. 163
When fill'd with Blood and Aſhes. 163, 164
Her Condition now. 186
Suffer'd more by one Villain, than by all the Defeats receiv'd from Hannibal. 187
A perpetual ſpring of brave and valiant Men ſo long as Liberty laſted. 195
Rome, *remain'd in Slavery notwithſtanding the Slaughter of* Cæſar. 244
Her Kings Lands, after their expulſion, conſecrated to Mars. 251
Romulus, *ſlain for aiming at too great an Authority.* 31
How not made King by the People but by God. 47. *v.* 330
Laid the Right of Appeals *to the People, as the Foundation of his Common-wealth.* 105
How he temper'd the fierce humor of the People. 334
Rule, there muſt be one relating to the Acquiſition and Exerciſe of Power. 206, 365
The Law of Nature is that which God has given to things. 241
If any had bin given by God and Nature, it muſt have bin from the beginning univerſal and perpetual. 332
There is one which Kings are oblig'd to follow. 365
None can be ſo exact as to make proviſion againſt all diſputes. 379
Without it Society cannot ſubſiſt. 397
Men ſubject to none but that of their own Reaſon. 414
Rules, ſet to diſtinguiſh between Right and Wrong in Princes. 33
By which Men are govern'd, are nam'd Laws. 52
Not generally true, if there be any juſt Exceptions againſt them. 69
In Politicks, ſome which ought always to be obſerv'd. 120, 121, 133
Obſerv'd in England *as to point of Succeſſion.* 167

S.

SAbeans, *their Kings, tho obey'd in all things within their Palace, yet might be ſton'd without it.* 78
Sacred, not to be accounted ſo by Crimes. 159
The Stile given to the Tribunes *as well as Monarchs.* 372
Salick *Law in* France. 40, 167, 212, 301, 304
Has bin in force above 1200 *Years.* 212
Not without difficultys ſufficient to ſubvert the Polity of that Kingdom. Inſtances thereof. 310
Salmaſius *his Story of Bees.* 83
Salus Populi, Lex eſt ſuprema. 79, 229, 255, 290, 304, 305, 336, 340
To what this Safety extends. 290
The End for which Governments are inſtituted. 292

An Alphabetical TABLE.

Samuel *was no King, for the* Iſraelites *ask'd one of him.* 230
What he wrote in a Book was not a Law to the People but to the King. ibid.
Told them their Folly and Miſery in asking a King. 234, 240
Not he, but God was rejected by them. 253
How he behav'd himſelf as Head *of the* Iſraelites. 390
Sanhedrin *inſtituted by* Moſes. 86, 115
How permanent. 87
Always to be Adviſers of the Jewiſh *Kings.* 209, 269
Where ſaid that Kings can do nothing without them. 239
For what end conſtituted Judges. ibid.
Saul, *his firſt Sin by which he fell.* 84, 87
Oppoſing God's Command he pretended to fulfil it. 89
The effects of his various fits of Fury. 94, 255
His Vices never diſcover'd, till he was on the Throne. 184
Gave the Iſraelites *no Law.* 230
Choſen King in the moſt Democratical Way, by Lot. 232, 235
How he overthrew his own Right. 236
Not made King by virtue of God's Unction only. 237
Savoy, *the Duke, found out thirteen halves to be in every Year.* 378
Saxons, *ſet up Kings and depos'd them as they pleas'd.* 270, 349
The brave Saying of King Offa. 298, 365, 372
Laws to which all our Kings have ſworn continue ſtill in force among us. 299
Severe Aſſerters of their Libertys and Laws. 331, 347, 358
We chiefly derive our Original and Manners from them. 347, 371
Their Aſſemblys the ſame in Power with our Parliaments. 348
In their own Country ſcorn'd all Employments but that of the Sword. 355
By what Names they and their General Aſſemblys were call'd. 356
Came hither under Hengiſt *and* Horſa. 357
How they came to reform their Manners, and frame Laws. 371
Their great Wiſdom in making Laws. 415
Schoolmen, an unjuſt Imputation on them. 3, 4, 10, 51
To what a nicety they have minc'd Oaths. 295
Scientes temporum, *who.* 194
Scipio Africanus, *the firſt that diſdain'd the Power of the Law.* 124, 125
Scotland, *the Miſchiefs brought upon it by their Conteſts.* 174
When and how conquer'd. 198
Their little number of Foot beat the King's Army at Newborn. 199
James *the* Third, Lewis *XI's apt Scholar in ſubverting the Laws,* &c. 211
Many of their Kings puniſh'd with Death, Impriſonment and Exile. 396, 399
Scripture, the Places therein relating to Government, how beſt interpreted. 13
What it ſays concerning Kings. 13, 85, 250
The Accounts there given concerning their Leaders. 85
What it occaſionally relates of the Babylonian *and other Monarchys.* 164
Declares the neceſſity of ſetting bounds to Princes. 209
Is clear concerning the antiquity of Laws. 230
Senate, their Power. 12, 104
Julius Cæſar *ſlain in it.* 95
Set up by the People. 108
How expos'd and deſtroy'd. 110
Condemn'd Nero *to be put to death.* 127
Kill'd Romulus. 142
Strangers admitted into that of Rome. ibid.
Abrogated the Power of the Decemviri. 156
The beſt Judges. 158, 159
And People of Rome *not to be brib'd.* 183, 184
Of Rome *like to be butcher'd, and for what.* 163
Choſen for their Vertues. 185
Of what conſtituent parts it may be compos'd. 216
The greateſt part of them fell at the Battel of Pharſalia. 329
Of Sparta *and* Venice *their great Power.* 345
Senators and Servants employ'd in our publick Affairs. 410
Sedition, popular. 8
What. 154
What it implys. 70, 160
Said to be occaſion'd by Learning. 91, 97, 123
None hurtful to Rome *till men got above the Law.* 105, 106
From whence it ariſes. 152, 153, 165
Proceeding from Malice, is ſeldom or never ſeen in popular Governments. 153
But always deteſtable. 161

An Alphabetical TABLE.

Sedition, one of the greateſt that ever was at Rome *appeas'd, and how.* 161
When juſtify'd by God and Man. 154, 155, 156, 157, 160
Moſt natural to abſolute Monarchys. 161
From Solomon's *time the* Jews *perpetually vex'd with them.* 162
To what ſome Magiſtrates give this Name. 312
Seneff, *the Battel of it.* 199
Servants of God, who. 48
Rais'd to high degrees of Honor. 55, 56
None can be Members of a Commonwealth. 59, 69
Ship-mony. vid. Judges.
Shires, far more antient than Alfred's *time, and what meant by them.* 353, 354
Singulis major, univerſis minor. 157, 264
Slaves by Nature, who. 4, 9, 29, 55, 79, 245
Oftentimes advanc'd. 55, 100, 101, 122, 126, 129, 288
No Members of the Civil Society. 106
Abſolutely reſign themſelves to the Will of others, and why. 135, 136
What States become ſo to their Protector. 147
What Tributes they are forc'd to pay. 262
What denotes a Slave. 290, 318, 319
What the true Badges of Slaves. 314
Sad, when the worſt of them came to govern Kings. 419
Will always be Cowards, and Enemys to their Maſter. 420
Slavery, what to be underſtood by it. 9, 19, 20, 25
What it is accompany'd with. 92, 122
The Produce of it. 112, 137
The Aſiaticks *underwent the greateſt.* 234
A great part of the Curſe againſt Cham *and all his Poſterity.* 239
None of God's Inſtitution. 240
What brings it upon any Nation, together with its ruin. 400
With a Witneſs. 409
Sloth in Princes, the miſerable Effects thereof. 170
Smyrna, *the deſign of taking that Fleet.* 200
Societys, muſt in ſome meaſure diminiſh Liberty. 19, 20, 22, 52
Subſiſt only by Order. 55, 66, 397
Civil, *compos'd of Equals.* 59
How inſtituted. 64, 70
When once enter'd into, oblige all to the Laws thereof. 70
Societys are maintain'd by mutual Contracts. 214
Socrates *put to death by falſe Witneſſes.* 123, 124
Soil, Kings not originally Lords of it. 357, 370, 371
Soldiers in Scripture, there were as many to fight for their Country, as there were able men to fight. 143, 144
Every man is one againſt a publick Enemy. 155
The Grecian *in the time of their Vertue had no Equals.* 195
The Chriſtian *their Obligation.* 316, 317
Soldiers Mercenary, overthrow all the Laws of a Country. 130, 214
Often betray their Maſters in diſtreſs. 138, 139
Several Citys in Italy *made their Wars by them.* 142
Always want Fidelity or Courage. 147
Sent to the Wars by force. 198
And other Villains ſubdu'd the Syracuſans, Spartans *and* Romans. 222
Soldiery, accounted a Trade. 105
Solomon, *his Idolatry and Oppreſſion.* 95
The bad effect of his Magnificence. 162
His peaceable Reign. ibid.
Overthrew the Law given by Moſes. 238
None will ſay he was a Tyrant, yet he was complain'd of by the People. 254
His Wiſdom ſurpaſs'd that of all the People. 386
Sovereigns, impatiently bear Competitors. 17
Majeſty, the extravagance of it in Auguſtus Cæſar's *time.* 329
Sovereignty, remain'd in the Roman *People.* 104
To whom the diſpoſal of it muſt perpetually belong. 364, 365
Spain, *has nothing ſave* Milan, *but what is come to her by Marriage.* 151
The Civil Wars there. 174
The antient Kingdoms of Spain *hereditary.* 301. *v.* 78
When one Kingdom comprehended all Spain. 305
How the Crown was diſpos'd of according to the humor of the People. 305, 306
The only Title Iſabel *had to the Crown, was deriv'd from Illegitimation.* 310
How the King may deſerve the name of being Head of his People. 392
Spaniards, *their Valor againſt the* Carthaginians *and* Romans, *and their Overthrow by two leud Tyrants.* 151

Spa-

Spaniards, *the condition to which they have reduc'd* Naples, Sicily, *the* West-Indies, *&c.* 187
Spartan *Kings, what they were subject to from their People.* 76, 77
Together with their Power. 210
Government in what it consisted. 115
Prefer'd by Xenophon *to* Athens. 123
Fram'd a most severe Disciplin. 142
Never any Sedition against their Kings. 210
Call'd an Aristocracy by all the Greek *Authors.* 216
Appointed Limits to the Power of their Kings. 218, 380, 393
Had no Law against Adultery, and why. 228
Spartans, *whom they brought from* Thebes *and* Epirus *to be their Kings.* 31
Jealous of Lycurgus, *and why.* 152
Had Kings before the time of Hercules *and* Achilles. 77
Sacrific'd their Lives in defence of their Country. 140
Never heard an Enemys Trumpet for 880 *Years.* 142
Whether descended from the Hebrews, *and what Power the collective Body of the People had over them.* 210
The Poverty and Simplicity of their Kings. 251
Their Legislature was in the People. 269
Stability, *the effect of good Order in that which is good.* 32, 93, 94
Wherein it consists in Man. 93
There can be none in absolute Kingdoms. 96, 163, 172, 173
Produces Strength. 97
Not wanting in Venice. 98
Nor among the Romans. 100
Star-Chamber, *its Jurisdiction abolish'd.* 344
States-General, *vid.* Holland.
Statutes, *from whom they receive their Authority and Force.* 405
Vid. Acts of Parliament.
Stipulations *are not Personal but National.* 402
Suarez, *his Saying about* Adam. 59
Subjection *lineal, never antiently dreamt of.* 58
To the Power, however acquir'd. 155
And Protection are Relatives. 371
Submission, *all manner of it is a restraint of Liberty.* 134
The nature and measure of it how to be determin'd. 397
Succession, *no difference in Religion said to be able to divert the Right of it.* 21
The eldest Brother prefer'd before the Son. 78
To the next in Blood. 93
Of Blood, the Disease incident to it. 148
Laws concerning it. 166, 280
By the Law of God and Nature. 166
The various ways of it in several Kingdoms. 167
The Slaughters about it in France. 169
Sometimes comes to Monsters in Cruelty, to Children and Fools. 279
The Law gives the Rule of it. 283, 301, 304
Five different ways of disposing of it. 301, 365, 366
In Spain *according to the Pleasure of the Nobility and People.* 305
Where in France *'tis like to be question'd, if not overthrown by the House of* Austria. 308, 361
Contests will arise concerning it, how exactly soever it be dispos'd of by Law. 309
No Footsteps of any regular one, either by Inheritance or Election. 331
Of the Crown settled by Parliament. 345
Several Questions arising from that which is hereditary. 360, 361
Superiority, *given to* Moses, *who was the younger Brother.* 23
Not in Nature, but in Vertue. 52, 53, 56
Supplications *and Remonstrances, where to be us'd.* 395
Supreme, *the extent of the Word.* 156, 157, 158, 225, 226, 321, 344
Power has bin enjoy'd in the fullest extent by such as never had the Name of King. 277
Where there was a reservation of this Power in the People. 284
Sweden, *the Blood-Royal not to marry out of the Country, or without the Consent of the States.* 167
How the Inheritance to the Crown is settled there. 301, 364
Election the best Title to it. 303, 353
Their Laws but few. 337
Who the Nobility of that Country. 353
What Charles Gustavus *told an Ambassador there.* 364
Switzers, *the* 13 *Cantons, how long they have enjoy'd more Peace than any other State of* Europe. 144, 145
None more free from popular Seditions. 145

Switzers, *the Laws of their Country read over in a few Hours.* 337
How they use their Delegates. 410
Sword, where left as an Inheritance to Familys. 95
The right of Appeals overthrown by it. 105
He that draws it against his Prince, ought to throw away the Scabbard. 153
Of Justice, and of War. 154, 259, 260
When the only Law that governs. 164, 188
A way of killing worse than that of the Sword. 186
To what end Swords were given to men. 245
The use of the Civil as well as Military, equally condemn'd by the first Christians. 259, 260
Of Power, in all sorts of Governments. 266
So to be us'd that Nations may live peaceably. 268
What meant by this Word. 268, 269
Of Justice comprehends the Legislative and Executive Power. 269
What the Military signifys. 269, 270
Questions about Title to Crowns often determin'd this way. 309
Where Edicts are besitated at by the Parliament at Paris, *this Power has bin made use of to compel.* 417
Sylla, *the Crimes of his Life, and Miserys of his Death.* 179
If not a Tyrant, there never was any in the World. 188
Resigns his Power, tho too late for Rome's *recovery.* ibid.

T.

TAcitus, *his sad account of* Rome. 50, 100, 102, 112, 125, 126, 137
Speaks of the Burden of absolute Power. 61
Mentions a sort of Kings us'd by the Romans *to keep Nations in servitude to them.* 331
When he says the Roman *Laws grew innumerable.* 337
Tamerlan *said he was not a Man, but the Scourge of God, and the Plague of Mankind.* 292
Tarquin, *the expulsion of him from* Rome. 10, 330, 331
The first that reign'd fine jussu populi. 68
Tarquin, *came in by Treachery and Murder.* 99, 108, 121, 158
How the People deliver'd themselves from him. 116, 135, 176
What follow'd from his being expel'd. 152, 244
His Counsel concerning the Poppys. 168
Taxes, upon what accounts to be given, but not to oppress the People. 251, 252
Tenants, how they now look upon their Lords. 382
Tenure, none in England *owes any but by virtue of a Contract, made either by himself or his Predecessors.* 246, 247
Those of Turpitude now abolish'd. 247
Of the Commons as antient as many of the Nobility's. 351
Tertullian, *several Sayings out of his* Apologeticks. 259, 260
The design of his Apology and Treatise to Scapula. 260
Calls the whole People of Carthage, Antiquitate Nobiles, Nobilitate felices. 356
Thanestry, the Law of it. 78
Themistocles, *his Character.* 123
His Envy and Spite to Aristides. ibid.
All the Citizens of Athens *able to bear Arms went along with him against* Xerxes. 141
A great and true Saying of his. 180
Tiberius, *his Reign an uninterrupted Series of Murders, Subornations, Perjurys,* &c. 163, 169
Assum'd the name of Cæsar *without any Title.* 257
His detestable Lust describ'd by Tacitus. 276
To what Counsellors he only inclin'd. 291
Time, changes nothing. 152, 196
Can make nothing lawful and just that is not so of it self. 346
Titles, of the first Kings came not from Paternity. 27, 221
Of Princes, deriv'd from Murders, &c. 33, 35
Some would not have them examin'd into. 33, 155
Hobbs *of another Opinion.* 155
Instances of ours in particular. 362
Of Civility have no power to create a Right of Dominion. 63
Disputes about them by what power to be determin'd. 79, 80, 310, 311
Thought good if the Princes could corrupt two or three Legions. 164
No Emperor had a better than what he got by Mony or Violence. ibid.

An Alphabetical TABLE.

Titles, to Dominion by whom confer'd. 221
The ſordid ways of attaining them in our days. 351
On whom thoſe of Offices were antiently confer'd. ibid.
In what juſt ones do conſiſt. 360
Several ways to overthrow moſt of them. 361
Kings, where inſtanc'd in to have no other than what was confer'd on them by the People. 364
Whatever is given to the chief Magiſtrate, he can have no other Power than what is given him by the People and the Laws. 368
The moſt ſwelling and auguſt, to whom given. 373, 381
Trade, ſubſervient to the end of War. 142, 143
Spartans *baniſh'd all the curious Arts that are uſeful to it.* 142
Trajan, *his Expedition into the* Eaſt. 109
Bitterly derided for his Clemency by Tertullian, *and why.* 273
Whom he bid to uſe the Sword for or againſt him, as he reign'd well or ill. 366, 413
Treaſon, the principal part of Treſilian's, *was his Opinion that Kings might diſſolve Parliaments at their pleaſure.* 384
Perſons executed as Traytors for things done by the King's Command. 404
'Tis enacted, that to kill the King is ſo, and to be puniſh'd with death. 416
Treatys, the King's name always us'd in them, tho they are Children, or otherwiſe uncapable, but yet they oblige them, their Succeſſors and People. 402
If Parliaments ſhould make ignominious Ones, when the Seſſion is ended, they muſt bear the Burden as much as others. 415
Tribes, the Ten, *why they did not return to the Houſe of* David. 238
Tribunes of the People, their Creation. 118, 176
Military, with a Conſular Power. 118, 121
How Cæſar *corrupted them.* 119, 130
The moſt dangerous Sedition compos'd by them. 153
Threaten the Dictator with a great Fine. 226
Eſteem'd ſacred and inviolable. 373
Tribute, the antient Jews *ſcrupled paying it to the Emperors.* 351
What underſtood by that name. 257, 258
Tribute, we owe none but what we freely give. 262
Triumvirate, *firſt ſet up by* Pompey. 188
Truſt, what the greateſt that can be repos'd in men. 345
Where that repos'd in Kings has bin miſemploy'd. 354
How Kings are ſaid to diſpenſe with it out of the publick Stock. 385
Vid. Kings.
Truth, no Conſequence can deſtroy it. 5
Is comprehended by examining Principles. 6, 329
Is the Rule of Juſtice. 28
Our Thoughts ought ever to be guided by it. 29, 57
The Knowledg of it makes men wiſe. 57
Can never be repugnant to Juſtice. 59
What are real Truths grounded on the Laws of God and Nature. 75, 76
Kings ſeldom hear it, till they are ruin'd by Lys. 201, 202
Can never be made too evident in matters of Importance. 304
Of abſolute neceſſity to keep the Tongue from Falſhood. 311
The bond of Union. 313
They that enquire for it, muſt not deny or conceal any thing. 359
Can ſeldom or ever conduce to miſchief. 388
Tryal, vid. Law.
Once acquitted, not queſtion'd a ſecond time for the ſame Fact. 213
In France *the King can't be preſent at any, for no man can be judg'd if he be.* 401
Here is ſaid to be coram Rege, *but it muſt only be according to the Law of the Land.* 403
Tumults, where they do no hurt. 92
From whence they ariſe. 152
What. 154
Among the Hebrews. 162
Of Rome, *their difference from ſome of our Battels.* 176
What Reigns are moſt accompany'd with them. 185. *v.* 171
Turks, *all the Royal Brethren expos'd to be deſtroy'd by the* Sultan. 63
Their greateſt Strength conſiſts in Children that do not know their own Fathers. 137
How they came by their Ruin. 187
When the Germans *fled to them for Protection.* 387
Tuſcany, *when one of the moſt flouriſhing Provinces in the World, now to how low an Ebb reduc'd.* 378

Tyranny,

Tyranny, how it may be weaken'd. 5, 6, 92
Abhorr'd by the Laws of God and Man. 34, 179, 208
Brought ruin to thoſe ſubjected thereto. 52
To impoſe Laws arbitrarily. 75
Can create no Right. 77
Is Empire gain'd by Violence. 77
The occaſion of Revolts. 107
All had their beginning from Corruption. 129, 161
Introduc'd by the worſt of men. 134, 250
The Overthrow of Spain. 151
The People miſerable under all. 157, 188, 189
Never founded on Contracts. 233
When it began to become odious. 254
Where it is very cruel, a Nation can't ſubſiſt, unleſs it be corrected or ſuppreſs'd. 285
To ſet it up, is to aboliſh Kings. 293
Is the Death of a State. 395
Not the Tyrant, but Tyranny muſt be deſtroy'd. 400
Tyranny with a Miſchief. 409
Tyrants, how they have bin accounted. 8, 27, 50, 122
The firſt King a cruel one, and call'd the mighty Hunter. 16, 94
Conſult only their own Greatneſs. 34, 61, 119, 223
Obedience ſaid to be due to them from the fifth Commandment. 50
The difference between lawful Kings and them. 61, 205
Few go to their Graves in Peace. 61, 179, 215, 219, 244, 279
Many would reſiſt but cannot. 73
Deſtroy'd by one another. 95, 159, 161, 171, 172, 285, 293
When they reign, the Vertuous are unregarded. 99
Fear and abhor all men of Reputation or Vertue. 110, 158, 171, 189
All Evils come in with them. 111
Deſtroy'd by their own People. 116, 223
The Thirty of Athens. 124, 155
Said exuiſſe hominem. 134, 157
Conſider Nations as Graſiers do their Herds. 191
A vertuous man could ſcarce die in his Bed under them. 126
Among the moſt vertuous Nations every man might lawfully kill them. 155, 205, 223, 293
Tyranni ſine Titulo. 155, 375
Extrajudicial Proceedings muſt be ſometimes againſt them. 160
What may be expected from them. 191
Tyrants, none ſuch upon Filmer's *Principles.* 205, 289, 290, 291, 292, 293
To what exceſſes of Cruelty their fear drives them. 206
Whom Ariſtotle *accounts ſuch.* 208, 209
Who ſaid to have laid the foundations of Tyranny. 211
Do many miſchiefs, and ſuffer more. 215, 218
Their Life miſerable, Death infamous, and Memory deteſtable. 219
Whether the whole courſe of their Actions do well ſute with the ſacred Name of Father. 227, 228, 229, 292, 293
Some in removing them have cut Tyranny by the Roots. 244
No Name for one in any of the Oriental *Tongues.* 253
He's no more than an evil or corrupted Monarch. 253, 285
No Obedience due to any of them. 276, 277
When Kings are ſaid to degenerate into ſuch. 286, 287
Set themſelves up againſt all Laws. 289
Call'd ſo, becauſe they have no Rights. 293
Are the worſt of all God's Creatures. 328
Speak always in the ſingular Number. 339

V.

V*Alour, the* Roman *was for the good of their Country.* 99, 100
By the excellence of it the greateſt Powers in the World were ſubdu'd by the Romans. 105
Venality, natural to Courts. 128, 129, 179, 180
Looks always after the beſt Bargain. 147
Venetians, *of what they are compos'd.* 115, 158
Relying on Trade and mercenary Soldiers, too much are forc'd to depend on Foreign Potentates. 142, 143
Their too great Inclinations to Peace accounted a mortal Error in their Conſtitution. 144
Venice, *the Dukes, tho ſtil'd ſupreme, yet are ſo under the Power of the Law, that divers have bin put to Death for tranſgreſſing it.* 156, 157, 380, 393
Their Noblemens Love for their Commonwealth. 176, 177
Concerning the Council of Ten. 366

Verdict of Jurys, in this consists the Strength of every Judgment. 338
Vertue, what. 190
What requisite in Kings. 24, 29, 34, 35, 52, 53, 55
Gave birth to the Grecian *Governments.* 31
Gives a natural preference of one Man above another. 51, 91
And also to Children. 62
Carrys the true Marks of Sovereignty. 54, 57, 90
Never continues in any Race of Men. 63, 164, 184, 185, 340, 406
Essentially necessary for preserving of Liberty. 92, 102, 196
When persecuted, few will follow it. 100
No way to real Honor without it. 104, 181, 196
Not to be consider'd when it is departed from. 124
When attended with certain destruction. 125, 126, 191, 195, 267
The Roman, *of being as a Law to themselves.* 128
Whose will be remember'd in all Ages. 134, 135, 149, 160, 195
Makes as many Soldiers as there are Freemen. 139, 195
Overcomes all Difficultys. 140, 148
And Strength make and preserve Conquests. 151
He that hath Vertue and Power to save a People, can never want a Right of doing it. 160
Can never long uphold what is vitious in the Principle. 161, 162
By what means it becomes popular. 181
Those hated and fear'd, who most excel in it. 183
Hated for its own sake. 190
Expires with loss of Liberty. 194, 195
Given where God pleases without distinction. 202
Where it has the Advantage, there can be no arbitrary Power. 219
Once blemish'd, makes former Services forgot. 276
Who encourage it most. 313
Makes the distinction between Men, simply or relatively consider'd. 327
Men are truly ennobled by it only. 351
Those that are Enemys to her, and fear not God, are afraid of Men. 388
The Vertues of a Man die with him. 406
Vice, Mankind inclin'd to it. 100 128
The Effects of it to a Nation. 101, 154, 161, 172, 176
Vice, may be profitable to private Men, but can never be so to the Government. 129
Its deformity when most conspicuous. 130
What England *has lost by her Vices.* 148
Those of Princes result to the damage of the People. 175, 190, 192
The Vermin that attend vicious Courts. 194, 195
By what means and to what end the Vices of Princes have bin fomented. 250
Vicious Persons, they will submit to any Power that promises them Impunity. 135
Care not what they do, if they can find their account in it. 314
Villains, little better than Slaves, appointed to cultivate the Lands, and to other servile Offices. 354
Villany, where it has bin promoted to supreme Dignity. 32, 42, 182
What it inspires, to attain its end. 46, 155. *v.* 30
Tarquin *hated only for his Villanys.* 158
None, that Men of desperate Fortunes will not undertake. 161
Supported by committing yet more. 182
What Rome *suffer'd by it.* 187
Vitellius *thrown into the Common-shore.* 163, 275
His contemptible Character. 166
Ulpian *his Saying, that* Princeps Legibus non tenetur, *concludes nothing against us.* 341
Union; Similitude of Interests, Manners and Designs, is a link of it. 133
United Provinces, *so steddy in Practice and Principle, as hardly to be parallel'd in the World.* 145
How the Deputys are us'd there. 410
Have had Dukes, Earls or Marquesses. 411
Vortigern, *the last and worst of the* British *Kings.* 350
His Favour to the Saxons, *and Carriage to the* Britans. 357, 358
Vox Populi est vox Dei. 47
Nothing more natural than to follow the Voice of all Mankind. 75, 396
General Consent is the Voice of Nature. 19, 20, 134
The Consequence of one Voice in each State. 215
Usurpation, made the first King. 16, 17, 35
Grounding Pretensions of Right from thence. 20, 27, 31, 32, 42, 46, 67, 90

Uſurpation juſtify'd. 42
The greateſt Injury can be done to Man. 67, 134, 155
What Power is ſo. 75
By whom bid to ſubmit to it. 155
Lawful for an injur'd People to reſume their own. 159
And Violence, ſaid to confer an inconteſtable Right. 205, 227
All is deteſtable and abominable. 265
None can deduce any Title from it. 361
Uſurpers, Athaliah *an Uſurpreſs.* 41
Have their Root in Violence and Fraud. 71, 117
Seem to be born for Plagues to Mankind. 104
What lawful againſt One is lawful againſt All, that is, to get rid of them. 155
May be ſuppreſs'd as Enemys and Robbers. 235
Some that never were Conquerors. 265
Declare their Contempt of all human and divine Laws. 318
We ought to examine the Titles ſo, as to judg of them. 361
Uſury, the Cruelty of it. 103
The mitigation of it compos'd inteſtine Quarrels. 176

W.

W*Antonneſs, from whence it proceeds.* 107
War and Peace, the Kings of Sparta *never had the Power of either.* 77
Tranſacted by the collected Body of the People. 86, 87, 88
War, the Hebrew *Government fitted them for War.* 115, 143
Of Charles *Duke of* Burgundy *with the* Swiſs-Cantons. 144
Better perform'd in popular Governments than in Monarchys. 149
It is Decertatio per vim. 154
When the People may engage in it juſtly. 154, 155
What to be accounted making of War. 235, 236
Differs much from what it was formerly. 256
There is ſuch a thing among men as a juſt War, and why. 265
Kings of Judah *cou'd not make any without the conſent of the* Sanhedrin. 269
Whether a Subject may examine if it be juſt or unjuſt. 316, 317
Where the Cauſe of it is originally juſt, and it proves ſucceſsful; what Right the Generals have over their Enemys. 367
The Events of it various. 374
Wars, Civil, only made by Members of the Civil Society. 106
None till the times of Marius, Sylla *and* Catiline. ibid.
Eſteem'd the laſt ſtruglings of expiring Liberty. ibid.
The Root of the Romans, *what.* 114
In France. 119, 173
From whence they ariſe. 152, 174
Pretences for them commonly falſe. 153
When they will always be frequent. 170
What Reigns moſt accompany'd with them. 171
In Spain. 174
More in Kingdoms than in Commonwealths. 175, 185, 187
Not the greateſt evil that befals Nations. 185
The Romans *and* Grecians *glory in freeing their Countrys from a Civil War.* 198
In Macchiavel's *account are a Diſeaſe.* 395
Wards, *that Court, how the Inſtitution of it was perverted.* 44
Weſtminſter, *what its Privileges in point of Elections.* 385
Wickedneſs, makes men Cowards. 206
Will, is ever drawn by ſome real good, or the appearance of it. 32
The dividing of the World left to the Will of Man. 37, 38
Paſſing for Law, the effects of it. 96, 205, 206, 223, 414, 415
Where this is the Rule, the Prince ſets up an Intereſt ſeparate from that of his People. 219
William *the* Firſt, *elected* a Clero & Populo. 72, 271
Could inherit nothing. 77
On what Conditions ſworn to be receiv'd. 298
In his time our Anceſtors were in a low Condition. 342
Wiſdom, not always annex'd to the Character of Kings. 43
When Men give Teſtimony of it. ibid.
Whoſe we ought to admire and imitate. 57, 157
The wiſeſt men moſt fit for Government. 92
Of Man imperfect. 120
A kind of Ability to diſpatch ſome ſort of Affairs, is ſo call'd. 202
Of the collected Body of the People ſurpaſſes that of a ſingle Man. 290

An Alphabetical TABLE.

Witneſſes falſe encourag'd, and call'd Cuſtodes Legum. 101, 129
No ſufficient defence againſt them either by the Laws of God or Man. 124
Miniſters of Iniquity. 151, 192
God or Man. 124
Countenanc'd at Rome. 186
The beſt Tribunals in the World may be miſled by them. 206
Iriſh. 101
Wittena-Gemote, *its Power as declar'd by* Camden. 350
The Power of the Nation reſided in them. 354, 384
Women, on what account they are excluded in France *and* Turky. 40, 78, 167, 301, 302, 365
And were by other Nations. 41
Some do admit them. 78, 167
What have govern'd Kings, but ſeldom Senats or popular Aſſemblys. 170, 179, 180
What Miſchiefs Kings have bin guilty of to gratify 'em. 407
Work, that of all Magiſtrates and Governors. 48, 53
Worſt Men advanc'd, and moſt ambitious to be ſo. 44, 50, 55, 56, 61
And by whom prefer'd. 131, 132, 133, 136
Stil'd Fathers of their People. 47, 48
Have their Tools to execute their deteſtable Deſigns. 111
Tyranny ſet up by them. 134, 135, 136, 192
Engag'd in all Tumults. 162
Moſt frequently have obtain'd the Empire by the worſt means. 166
Their Principles ought to be deſtroy'd. 181
Eaſily ſwallow Bribes. 182, 184
Have moſt Power in ſome Courts. 183, 184
How Princes become ſo, as alſo the moſt miſerable. 219
Delight in the worſt things. 241
Worſt Men, whom they had no need to fear. 267
What baſe courſes they take to gain the favour of weak and vicious Princes. 279
What encourages them to murder the beſt of Princes. 344
Worthy Men, in ill times ſuſpected for their Vertue. 101
Ought to be had in higheſt Veneration. 333
Wrong, is a Breach of the Laws, which determine what is Right. 205
If there be none done, there can be no Revenge. 206
Where Kings can do none. 403

X.

XEnophon, *why he call'd* Ageſilaus *a good and faithful King.* 76
Conducted the Grecians *Retreat in deſpite of above* 400000 *men, who endeavor'd to oppoſe them.* 97
His Opinion concerning Tyranny. 122
For Ariſtocracy. 122, 123, 136
Xerxes, *his Folly in inflicting Stripes on the Sea.* 43
His Invaſion of Greece. 141

Y.

YNca Garcilaſſo *of* Peru, *the fabulous Story of him.* 164, 165
Younger Brothers prefer'd to the Elder. 23, 80

Z.

ZEal, *Exceſs of Violence is but an ill Teſtimony of it.* 144
When it can never be capable of Exceſs. 235
Zimri, *his Title to the ſupreme Honor how acquir'd.* 29
Zoroaſter, *ſuppos'd to be* Ham. 27

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